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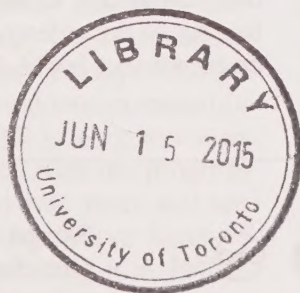
Lundi 25 mai 2015

Standing Committee on General Government

Infrastructure for Jobs
and Prosperity Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015 sur l'infrastructure
au service de l'emploi
et de la prospérité



Chair: Grant Crack
Clerk: Sylwia Przedziecki

Président : Grant Crack
Greffière : Sylwia Przedziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 25 May 2015

Lundi 25 mai 2015

*The committee met at 1400 in committee room 2.*INFRASTRUCTURE FOR JOBS
AND PROSPERITY ACT, 2015LOI DE 2015 SUR L'INFRASTRUCTURE
AU SERVICE DE L'EMPLOI
ET DE LA PROSPÉRITÉ

Consideration of the following bill:

Bill 6, An Act to enact the Infrastructure for Jobs and Prosperity Act, 2015 / Projet de loi 6, Loi édictant la Loi de 2015 sur l'infrastructure au service de l'emploi et de la prospérité.

The Chair (Mr. Grant Crack): I'd like to call this meeting of the Standing Committee on General Government to order. I'd like to welcome all members, support staff and all the presenters here this afternoon. Today, we are dealing with Bill 6, An Act to enact the Infrastructure for Jobs and Prosperity Act, 2015. We have, I believe, 16 delegations before committee this afternoon. It's 15 minutes per: five minutes for each presentation followed by nine minutes of questioning, three from each of the parties. We shall start.

TORONTO COMMUNITY BENEFITS
NETWORK

The Chair (Mr. Grant Crack): At this time, I would like to welcome, from the Toronto Community Benefits Network, Mr. Steve Shallhorn, who is the chair. Welcome, sir. You have five minutes.

Mr. Steve Shallhorn: Thank you for the opportunity of appearing before this committee. The Toronto Community Benefits Network was formed two years ago to bring the community benefits agreement model to Ontario. The model has been successfully used across the United States and in the UK. Just last Friday, Premier Wynne referred to the Eglinton Crosstown community benefits agreement, of which the TCBN is a signatory, as the first in Ontario. We're very pleased with the progress that has been made in Ontario in just two years and are here to advocate for establishing a legislative basis of community benefit agreements by including it in Bill 6, the Infrastructure for Jobs and Prosperity Act, 2015.

The community benefit agreement model can add value in six ways to Ontario's infrastructure investment. It can maximize the value of every dollar spent; it

addresses high unemployment rates among Ontario's youth, aboriginal and newcomer communities; it ensures that the supply of trained, skilled construction labour is maintained, despite an expected bulge in building trade retirements; it provides opportunities in the professional, administrative and technical careers for newcomer Ontario residents who have international training and experience that is needed in the construction industry but have yet to find a career in Ontario; it allows it to expand the size and scope of social enterprise businesses in Ontario; and it allows it to build neighbourhood amenities consistent with the nature of the project.

At their core, CBAs are a mechanism to ensure that there's more equitable information about and access to the training, jobs and contracts needed for completing infrastructure projects on time and on budget.

A CBA is not a make-work project and it is not a job creation program. It's a more efficient way to marshal workforce development resources already being provided by the province. It works by breaking down silos, creating more effective communication and getting the key sectors working with each other.

The five pillars of success for a community benefits agreement are labour, community, workforce development, industry and government working together for collective impact. We have started working together on the Eglinton Crosstown project.

When a proponent for an infrastructure project submits a bid, they have already calculated their need for skilled construction labour, including apprentices. They've also calculated how many professionals and technical people they need, and consultants and some subcontractors. A CBA provides a mechanism to reach into communities to fill those jobs and give access to those who need it most.

In the case of apprentices, the TCBN has already started resident recruitment in different Toronto priority neighbourhoods. Working through leaders of diverse communities, candidates are invited to information meetings that include representatives from the building trades and employment counsellors from Employment Ontario job centres. Those who are interested go on.

The TCBN keeps in touch with the building trades training centres and refers candidates to those centres when they start an apprentice course. Our referrals are subject to the same entry prerequisites and receive the same training as everyone else.

I should note that employers, through the relevant contractor associations, sit on the boards of the training

centres to ensure that training is up to date and relevant to what employers need.

In the case of professional, administrative and technical jobs, it takes a little more work to match the skill sets of each individual to an employer's needs. One of the things the TCBN learned from meeting with each of the proponents on the crosstown line was that each was concerned where they would find skilled white-collar workers to do this type of work. Skilled logistics experts were particularly singled out. Yet we know from experience that these skills exist in newcomer communities. The reality is that, through imperfect labour market information, the companies and new Ontarians have difficulty connecting. The CBAs can provide that bridge.

A social enterprise is a revenue-generating business that also has as its mission social goals such as employing Ontarians who may have difficulty coping with the stress of an ordinary workplace. The sector is preparing to bid on contracts in such areas as printing, courier services, catering, landscaping and others on the Eglinton Crosstown. They can compete on price and service, but, like many small businesses, the contracts they can fulfill are often smaller than what might typically be put to tender. With just a little effort in creating smaller chunks of work, important social goals can be met. A CBA provides that mechanism.

An aspect of a CBA is for a community to ask for amenities and local improvements as part of the construction projects. Sometimes it can be as simple as moving a facility a few metres from a street to make room for a street marketplace, trees and street furniture. It can be to provide bicycle racks or lockers, or making it easier to install solar on large rooftops of built facilities.

The Chair (Mr. Grant Crack): Could you just wrap it up very quickly, please?

Mr. Steve Shallhorn: Finally, I want to thank Metrolinx. If they hadn't been so receptive to us in the first place, we wouldn't have made the progress that we have.

We urge the committee to agree to put forward a legislative basis in Bill 6.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Shallhorn.

We'll begin with the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thanks for coming in today. I just have a quick question. I don't know too much about community benefit agreements. It seems you've outlined a strategy for Toronto and the GTA area. Has this been tried and tested in rural Ontario, and is it as effective? Is there an ability for this to be done in rural Ontario, where there are fewer people, and less population and trades and such?

Mr. Steve Shallhorn: It hasn't been tested in a community benefit agreements model, but impact benefit agreements are now fairly standard in northern Ontario, where projects are being undertaken on aboriginal land. There, the focus is mainly on training, so that local people get the training they need to be involved in the project. A lot of the construction companies and design firms that are used to working in northern Ontario are

familiar with impact benefit agreements, so they get community benefit agreements as well.

Mr. Jeff Yurek: Do CBA agreements cancel out anybody's opportunity to participate? Can any corporation or private business—

Mr. Steve Shallhorn: As I pointed out, the proponents determine their own labour needs, which they presumably take into consideration when they submit their bid. It's simply a mechanism to provide access to the jobs that the contractor has already submitted.

The Chair (Mr. Grant Crack): We shall move to the NDP. Mr. Hatfield.

Mr. Percy Hatfield: Hi, Steve. Thanks for being here this afternoon. I'm just filling in briefly; Taras Natyshak from Essex will be here at any moment.

Can you tell me what your experience has been with your involvement on the Eglinton Crosstown project?

Mr. Steve Shallhorn: So far, it has been very positive. Metrolinx was receptive to the communities that we were organizing in, especially in Mount Dennis-Weston, but across the Eglinton line. We've had good co-operation from several of the building trades, who are very keen and very supportive of working very closely with us, and we've had some resident engagement meetings already. Some people—mainly from the Somali community, but other communities, as well—who have come to those meetings have already received training in the building trades and are starting work.

Mr. Percy Hatfield: What will they be working on?

Mr. Steve Shallhorn: The ones who are starting now are being assigned to other building-trades projects. I believe some are working on the Leslie Barns. We expect construction on the Eglinton Crosstown line to begin in January. We're starting to do the recruitment and training now, so that those apprentices will be ready to go early next year.

Mr. Percy Hatfield: I know you were talking about street or sidewalk amenities and such. Have you had any discussions on improvements on the streetscaping along the line?

Mr. Steve Shallhorn: There has been some discussion of that on the Eglinton Crosstown line. For instance, there's a large bridge structure being built over Black Creek, and I think Metrolinx is requiring some creativity on how that would look. Also, the right of way is being altered there a little bit to make what is kind of a horrendous pedestrian underpass along Eglinton Avenue more hospitable.

1410

Mr. Percy Hatfield: Are you part of any provincial association or network that you can compare what you do in the GTA to what happens in Windsor or Thunder Bay or Ottawa or anything like that?

Mr. Steve Shallhorn: We've started to talk to organizations outside of Toronto, and it's very much our intention to be a resource for communities and other centres, whether they be in northern Ontario or southwestern Ontario. We see ourselves as pathfinders. We've benefitted from organizations in the US that have helped

us understand the ins and outs of how this works, and we're looking forward to turning around and helping other communities across the province.

Mr. Percy Hatfield: Is there anything else you wanted to say? I know you just ran out of time at the end there, but anything else you wanted to add?

Mr. Steve Shallhorn: Just to say that getting a legislative basis for community benefit agreements is an important step, and it would be really great if the committee could make that recommendation.

Mr. Percy Hatfield: Have you had any consultation or any discussion with the government or government members?

Mr. Steve Shallhorn: Very early on, we met with every MPP whose riding is along the Eglinton Crosstown line to make sure that they were aware of what we were doing, and we got a very good response.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. It was well timed. We shall move to Mr. Milczyn from the government side.

Mr. Peter Z. Milczyn: Good afternoon, Mr. Shallhorn. Thank you very much for your presentation. Particularly interesting was early on, you spoke about the six key benefits of community benefit agreements. I just wanted to make sure that everybody on the committee understands this: You're not suggesting that community benefit agreements increase the costs of these projects; you're saying they maximize the value. Could you maybe explain a little bit more about how you feel they'll be able to maximize the value for the dollars that are being spent?

Mr. Steve Shallhorn: It's about who fills the jobs that the contractors themselves identify need to be done and who will provide the services that the contractors themselves determine need to be done. For instance, when they build the maintenance and storage facility on the Eglinton line, it's a 24/7 operation. Presumably, there will be a cafeteria. If that is kitted out as a cafeteria, a social enterprise could be contracted to provide those services.

In the case of apprentices, as I said, the contractor decides how many apprentices it needs in each of the building trades. What we're about is doing recruitment in communities that often don't understand how the building trades system works in Ontario. Maybe they come from countries where building trades are very dangerous and underpaid and have low social value. That's a different situation in Ontario, where it's a safe job and a good job. In fact, it's a career. So that's part of the message that we're taking into these communities.

Mr. Peter Z. Milczyn: I was wondering if you've had any discussions with officials from the Ministry of Economic Development, Employment and Infrastructure about specifically how you might want to see this incorporated into legislation.

Mr. Steve Shallhorn: We haven't had specific discussions. What we've presented here today is something that we've put together in the last week, since we were aware that it was coming before this committee.

Mr. Peter Z. Milczyn: Having come from the municipal sector, does this approach lend opportunity for individual communities to try to leverage their own local community infrastructure to get more out of a project than just a bridge or a tunnel? There could be street-scaping, there could be public art; there could be any number of other attributes that benefit the local community.

Mr. Steve Shallhorn: I think that a community benefit agreement is not a section 37, if that's what you're asking.

Mr. Peter Z. Milczyn: No, no. I'm not suggesting that.

Mr. Steve Shallhorn: It is perfectly feasible for cities to enter into community benefit agreements, and in fact, now, the countries—that's a level of government that's been most closely associated with CBAs.

The city of Toronto is looking very closely at CBAs as part of its social procurement model, and I believe it's reporting to council in December. I would expect that there would be some recommendation to engage in CBAs. There may be a threshold at which it is advisable to include a CBA. This would work for a small bridge repair.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Shallhorn, for coming before our committee; we appreciate your remarks.

PROVINCIAL BUILDING AND CONSTRUCTION TRADES COUNCIL OF ONTARIO

The Chair (Mr. Grant Crack): Next we have, from the Provincial Building and Construction Trades Council of Ontario, Mr. Patrick Dillon. He is the business manager and secretary-treasurer. Mr. Dillon, we'd like to welcome you before the committee. The floor is yours. You have five minutes, sir.

Mr. Patrick Dillon: Thank you. My name is Patrick Dillon, the business manager of the Provincial Building and Construction Trades Council of Ontario. With me is Igor Delov, our executive assistant. Our organization represents 13 international unions that represent 150,000 unionized construction workers in the province of Ontario.

I'd like to thank the committee for inviting us here today to comment on Bill 6, the Infrastructure for Jobs and Prosperity Act, 2014. Our council is very supportive of the government's continued investments in critical infrastructure, which benefit not only the construction industry but Ontario's economy as a whole. We, therefore, welcome Bill 6, which will require the government and future governments to prepare long-term 10-year infrastructure plans.

In our view, infrastructure investments, which are absolutely integral to our economy, should be depoliticized as much as possible because securing those investments helps strengthen businesses, workers and the tax base, which supports public services.

However, we would like to point out some issues that we have with the bill as currently drafted. The proposed bill, under section 3, outlines 10 principles which the government and every broader public sector entity shall consider when making decisions respecting infrastructure. This is a good concept, but how do we anticipate its enforcement? Won't the entity say, "We considered all those things"? We are rather cautious of creating a statutory duty without meaningful enforcement provisions.

Moreover, we believe that section 8, subsection 2 and section 11, subsection (e) require further expansion in the sense that trade-specific journeypersons-to-apprentice ratios should be consistent with the requirements as presently determined by the Ontario College of Trades and the Ontario College of Trades and Apprenticeship Act, 2009, and, in my view, the ratios should be made mandatory.

Currently, the bill has no reference to health and safety. We would ask this committee to insert language in the bill which would require infrastructure planning to take every step to minimize all health and safety risks to workers throughout the whole life cycle of every publicly funded project, including design, finance, procurement, construction and maintenance.

We would also like to see in this legislation a commitment to work with community groups and potentially, through the use of community benefit agreements, an enhancement of the local workforce by aligning apprentices with work opportunities. Trades training is the key to meaningful employment opportunities and to better workplace safety.

There already are a number of successful programs which attract specific populations in expanding employment opportunities in the construction industry. For example, Hammer Heads for at-risk inner-city youth and aboriginals; Helmets to Hardhats Canada for returning veterans and reservists; Build Together for women; Choice carpenters' program for young people; and the IBEW Work Ready Aboriginal People Program for First Nations.

Leveraging public dollars by requiring contractors who bid and work on infrastructure projects to hire workers from these and other programs is a smart way of preparing the workforce of tomorrow. That is something that Bill 6 ought to reflect. Programs which have high apprenticeship completion rates are well-positioned to yield high returns on investment from a skills development point of view.

The building trades have an exemplary enlistment and retention rate for apprentices, and our council is willing to work with the government, as well as with all political parties, to support construction apprenticeship as we build Ontario's infrastructure.

1420

Thank you for the time, and we look forward to answering any questions.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Dillon. We shall start with the third party, the NDP: Mr. Hatfield.

Mr. Percy Hatfield: Good afternoon. Welcome.

Mr. Patrick Dillon: How are you?

Mr. Percy Hatfield: I'm okay. You talked about number 5: the hiring of registered apprentices. I'm going on memory, but when I read the recent budget, a previous bill was mandating apprentices on every job. Was that watered down in the last budget presentation?

Mr. Patrick Dillon: I don't think it's watered down. What we're trying to do here is bring attention to the—people are always talking about the ratios like they're a bad thing. The ratios are a good thing in many ways—I think in most every way that you can imagine—but we're looking to make them mandatory so that it's not just something that's written, that you have an apprenticeship ratio of two to one. When you actually bid and do the work, you should have one apprentice for every two journeypersons. The way it is, it's voluntary, and some employers will have more apprentices than they do journeypersons, and other employers will have no apprentices. You can't build Ontario's future workforce that way.

Mr. Percy Hatfield: I remember the earlier bill talked about the living legacy, which would be qualified apprentices left behind after the job has left a community.

In point 9, you talk about health and safety. I'm just curious: When you talk about health and safety through the entire life cycle of every project, including design financing, what part of financing has to do with health and safety? Is that in the design of—

Mr. Patrick Dillon: I guess we mentioned finance there in the sense that it seems that, in a number of circumstances, financing takes priority over health and safety or over most things. We think that's wrong; that people's lives are worth much more than what they're getting at this point, the way the legislation is now.

Mr. Percy Hatfield: Okay. Pat, could you expand on your last sentence there: "This can be better achieved by requiring mandatory trades training of the future workforce"?

Mr. Patrick Dillon: Well, that's exactly what we're talking about there. You mentioned apprentices being left behind. In construction, at least in the building trades side of the industry and the unionized employers—they do not leave apprentices behind. We take the apprentice to the next job.

In some circumstances, we have situations where your comment is right: Apprentices are left behind, and for a number of reasons, that really negatively impacts on the industry. Parents see that little Joey was left behind. Other people—neighbours—see that, so they would not recommend that their son or daughter take an apprenticeship because they get left behind in certain circumstances. We think that has a real negative impact, and so we looked at—that mandatory training, we think, is—the evidence is pretty clear that the trades that have mandatory training have the best retention and the best safety records.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it. We'll move to the government side: Ms. McMahon.

Ms. Eleanor McMahon: Thank you for being here. It's incredibly helpful; I could listen to you all day. This is great.

I'm a bit biased: My nephew just finished an apprenticeship as a welder, so I particularly appreciated your comments with respect—I echo my colleague here—to the health and safety aspects, in terms of making sure that that is job one. Interesting and very helpful—thank you for those recommendations. I assume we'll get a copy of your presentation, which I know will add value.

Mr. Patrick Dillon: Yes.

Ms. Eleanor McMahon: A couple of things: I get the sense that you're appreciative of the long-term infrastructure planning aspects of the legislation, and that's great.

Mr. Patrick Dillon: Yes.

Ms. Eleanor McMahon: With respect to the apprenticeship piece of the bill, you indicated, I think, unless I misheard you, that there's some challenge with respect to a prescriptive, number-based approach. Although you appreciate the intent of the legislation, you have some concerns about that. Can you just expand on that a little bit, and what you might do instead or how you might suggest that we change that, or anything helpful you can add?

Mr. Patrick Dillon: I don't have an issue with how the system operates now, as far as what the ratios are. I think the government made a good decision in setting up the Ontario College of Trades, which empowers industry to gather the statistics on the needs of a trade, the future demand and so on. They set their apprenticeship ratios based on that, based on the standard of the trade itself and the safety factors. So, to me, that is the right approach to apprenticeship training. In time, if there's more demand or less demand, then the industry will see that and will adjust their ratios. To me, that's the most responsible way to deal with ratios.

Ms. Eleanor McMahon: Thank you. That's helpful.

The Chair (Mr. Grant Crack): Mr. Dong?

Mr. Han Dong: I just want to ask a quick one. Thank you for the presentation. As the PA for TCU, in my mandate letter it talks about how to deal with the low graduation rate for apprenticeship programs. Having the apprenticeship provision inside, as part of this bill, the same bill talking about long-term infrastructure planning, what are your thoughts on how this will help increase, or if it would help to increase graduation rates for apprenticeships?

Mr. Patrick Dillon: Why have it in here? Well, there are a couple of reasons. One, having it in here will make it mandatory for the successful bidding contractors that bid on the work to employ the numbers that are carried by the Ontario College of Trades act. That is the real thrust.

The other thrust is, we need to build Ontario's future workforce, and when you have government funding, which is probably the largest purchaser of construction in Ontario, you ought to have some obligation to making sure that we do have a future workforce to build infrastructure, not only for the public sector but for the private

sector. So we're looking for a mandatory push from the government by putting that in legislation.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the official opposition: Ms. Thompson.

Ms. Lisa M. Thompson: Thank you for being here. I just want to go back and revisit your conclusion. You say that you welcome the introduction of Bill 6; you believe that several key additions, as you've outlined in your briefing, are needed to strengthen the bill; and you're ready and willing to work with this government. This particular bill has been on the books since July of last summer, I believe, and indications have it that in the next two weeks, this government is going to be very busy trying to ram through as much legislation as possible. Do you feel that we can do justice and strengthen this bill in eight short sitting days?

Mr. Patrick Dillon: Well, I suppose the length of time that you have to deal with them is not in our hands or in the public's hands; it's all within the three political parties in this room, whether you have eight days to deal with it or 20 days to deal with it. So that's up to the politicians. We think that the legislation is important and that making some—and we don't see this as rocket science, revolutionary stuff that we're suggesting. It's pretty common-sense stuff; I can't imagine a really good, principled argument why it couldn't be inserted. In fact, a lot of the stuff that we suggest here, in the private sector—sort of the money-makers, if you will, in the province of Ontario—they have stuff like this, particularly around safety; if you don't have what we're suggesting here in your safety record, you don't come in their plant. But the government—you can work for them.

Ms. Lisa M. Thompson: So do you feel confident that the government will be bringing forward your suggestions and amendments?

Mr. Patrick Dillon: That's why we're here: to present them, and hopefully you will help them come to that conclusion.

Ms. Lisa M. Thompson: Well, there's been a track record the last few weeks of very quick noes to any amendments, so we'll see how this turns out.

Mr. Patrick Dillon: All right.

Ms. Lisa M. Thompson: Thank you.

Mr. Patrick Dillon: But our comment there was that we'll work with the government and all political parties as we go forward.

The Chair (Mr. Grant Crack): Good. Thank you very much, Mr. Dillon and Igor, for coming before committee this afternoon. We appreciate your insights.

CONSULTING ENGINEERS OF ONTARIO

The Chair (Mr. Grant Crack): Next on the agenda, from the Consulting Engineers of Ontario, I believe we have three individuals: Mr. Steinberg, Mr. McDonald and Mr. Perruzza. Welcome. You have five minutes.

1430

Mr. Barry Steinberg: Good afternoon. Thank you very much. I'd just like to introduce Gerard McDonald,

from our regulated Professional Engineers Ontario—he's our registrar—and Sandro Perruzza from the Ontario Society of Professional Engineers advocacy body.

We'd like to thank you for the opportunity to speak to you this afternoon about what we feel is arguably one of the most important pieces of legislation that we'll see for quite some time. I'm of course referring to Bill 6, the Infrastructure for Jobs and Prosperity Act, 2014.

Our presence together today marks the first time executive leadership representing the province's engineering firms and our profession's more than 80,000 professional engineers have appeared together at a standing committee to speak with a singular voice. This is how important this bill is not only to our collective memberships but also to a very large and important sector of Ontario's economy.

Debate in the Legislature these past months has seen all parties at the table today recognizing the importance of Bill 6, given the framework it will provide for tackling Ontario's infrastructure needs. More important is the vision it represents, how Ontario will look forward as it plans for and invests in our future prosperity. By creating the statutory requirement for a comprehensive 10-year infrastructure plan, the province is proposing to break the habit that has become common at all levels of government: using infrastructure commitments as campaign planks for election.

This bill has the potential to establish a thoughtful and innovative infrastructure strategy that can, through the primacy of quality design and planning, help Ontario not just dig out from under our current infrastructure deficit, but also accurately address the future needs of this province. Such a strategy is essential if we are going to foster corporate investment and innovation, the creation of good jobs and a return to a standard of living that is the envy of the rest of Canada.

It is for these very important reasons that my colleagues and I appear before you today. We contend that for the government to be able to develop and execute a successful long-term strategy, as proposed in the draft legislation, rooted in principled evidence-based planning, fostering innovation by making the most of our collective talents and accurately accounting for life cycle costing, it must include an explicit and definitive role for professional engineers.

It is our firm belief that professional engineers and the role we play in planning, designing, constructing and maintaining the province's public infrastructure must be defined so as to be equal to any regulated design profession. Ontario has two self-regulating professions in the design sector. To not afford them equal standing in the proposed legislation represents a significant oversight and does not represent the best interests of Ontarians.

By virtue of the Professional Engineers Act of Ontario, our profession has a fiduciary responsibility to public safety and welfare. By not explicitly acknowledging the role of our profession, Bill 6 ignores this fiduciary responsibility. Interestingly, no such concerns seem to exist for architects under their act. As such, we

hold it to be critically important that section 7 of the bill include language speaking specifically to the role of professional engineers.

The vast majority of infrastructure projects to be undertaken under this bill will be of a class and scale requiring the involvement of engineers, as stipulated by our act, hence we assert that it is not possible for it to remain silent on the role of professional engineers.

We have been actively advocating this fact and our proposed amendments for this bill with both the government and the opposition for some time, since it was first introduced as Bill 141 during the last legislative session and its reintroduction in its present form as Bill 6. We are pleased to say that we have had thoughtful and meaningful discussions on our proposals, and we hope that the amended legislation will reflect language that will best serve the interests, safety and welfare of the people of Ontario.

Thank you again for this opportunity to appear before you today. We'd be pleased to take any questions you may have for us.

The Chair (Mr. Grant Crack): Thank you very much, sir. We shall start with the government side. Ms. Kiwala.

Ms. Sophie Kiwala: Thank you so much for being with us today. It's a great pleasure to have you here. Over the course of the last few weeks and months, I've had several opportunities to meet with engineers from your organization. It's been quite a worthwhile process. I've learned a lot more about the concerns for safety that you have and I've been very impressed with your commitment as an association to safety in our communities.

I feel that the unseen nature of your work is absolutely critical and cannot be understated. I come from a federal government background. I'm very interested in how you feel this government's commitment to infrastructure compares to that of the federal government.

Mr. Barry Steinberg: Well, I've gone on record on radio and TV as being quite dismayed at the federal government's lack of long-term planning and long-term commitment to infrastructure, but particularly to transit in Ontario—and generally to its cities, to the municipalities in Canada.

Ms. Sophie Kiwala: You've touched on it a bit, but can you speak a little bit more about the importance of legislating long-term infrastructure? I feel that this legislation is making history. We're very proud of the long-term forecast. So I just wondered if you can touch a little bit more on that.

Mr. Barry Steinberg: Infrastructure is probably one of the most important aspects of stimulating economic activity and growth. It creates jobs, it creates a tax base—and that's roads, transportation, transit. For example, in Toronto alone—and that's not other municipalities across the country—we're decades behind in transit planning. I think that's very important.

In terms of water and wastewater, depending on who you speak to and where you are in the province, 20% to 40% of the water being pumped to homes and businesses

is leaking through broken pipes. This is quite a waste of not only water, but money and energy.

I think that there needs to be a long-term commitment in order for us to relieve what is an infrastructure deficit that really dwarfs the visible deficit in this province.

The Chair (Mr. Grant Crack): Fifteen seconds—quickly.

Ms. Eleanor McMahon: Sorry. A quick question for you: My colleague spoke about the investment by the federal government. I hear your concerns about the lack of specificity in terms of the legislation with regard to mentioning the profession. Can you tell us what that might look like? Just give us some guidance and feedback there in terms of what kind of specificity you'd like to see.

Mr. Barry Steinberg: In section 7, we'd like to see specific mention of engineers being involved where required in infrastructure projects, in a very similar fashion to the way it's worded for the architects.

Ms. Eleanor McMahon: Good. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it. We'll move to the official opposition: Ms. Thompson.

Ms. Lisa M. Thompson: Thank you for being here, gentlemen. I was taken by the fifth paragraph in your briefing today. I'll just go back and revisit it: By creating the statutory requirement for a comprehensive 10-year infrastructure plan, you hope that the province is proposing to break a habit of making infrastructure commitments campaign planks in an election.

That stuck with me because just over this weekend, the Premier tweeted that they've committed \$15 billion to infrastructure outside of the GTHA and need input on how to invest it. The tweet says exactly, "Tell us what's important in your region." When I saw that, it was like, "Oh, here we go." They're wanting to hear from Ontarians, and then they'll cherry-pick things that they think might win them favour in areas where they need to start picking up seats.

Based on that fifth paragraph, do you have any confidence that this government will actually uphold the integrity that you hope this bill instills, or are they just talking the talk?

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Mr. Barry Steinberg: I'm going to tell you that I don't actually know what they're doing. We prefer to be optimistic. We do see this bill as a framework; there's no doubt that this bill is a framework. We have three years after that to start building a set of regulations that, what I'll say, give the plan teeth and make the legislation work.

We feel that we should, along with others, be at the table to talk about this. I think the consultation with those organizations and those professionals who do the work, who understand how things are done, is imperative. If that consultation occurs, I'll tell you, my confidence will grow and grow.

Ms. Lisa M. Thompson: Okay. Thank you.

The Chair (Mr. Grant Crack): We shall move to Mr. Hatfield.

Mr. Percy Hatfield: I used to be a reporter, so the journalist in me has to know: After your thoughtful and meaningful discussions, was it an oversight or deliberate that engineers aren't specified in here the way architects are?

Mr. Barry Steinberg: I have no insight into that at all.

Mr. Percy Hatfield: You didn't find out from your meaningful and thoughtful discussions?

Mr. Barry Steinberg: Well, what we have been told, of course, is that changes are likely to be made—that changes will be made. We of course don't know what they are. We would like to see it be changed just through a mention, in a very similar manner, as I said, to the way architects are mentioned. If the change is made in that manner, we would be very happy, but what the motivation is, I can't tell you.

Mr. Percy Hatfield: I'm not a builder, I'm not an architect or an engineer, but it would seem to me that you have a certain responsibility on any building project, the same as an architect, so why would one be singled out and not the other?

Mr. Barry Steinberg: I agree with that. That is our question. That's why we're here, and that's why we've been working together with all parties to try to effect change.

Mr. Percy Hatfield: I think Ms. McMahon alluded to it in her quick question: What can this committee recommend that would benefit you and your profession?

Mr. Barry Steinberg: If you were to look at section 7, where architects are mentioned, I think it has to be worded in a reasonable way that there's another section that mentions engineers, not in an identical way, but in an almost identical way.

Mr. Percy Hatfield: To your profession, is this the highest priority that has come along in a long time? Because you say it's the first time that you're speaking in a singular voice for all the engineering firms in Ontario.

Mr. Barry Steinberg: It's one of the highest priorities. We've been working hard on a number of issues. One of the biggest ones was when we were working for putting the 10-year capital plan together, which ended up to be Building Together. We put a lot of effort there, and we worked together as organizations.

But this is the first time, because this is so important to the profession in general, that we felt the necessity to bring all the organizations that represent our profession together to make a point, because we have a unified message.

Mr. Percy Hatfield: I guess it's no surprise that we have far more former journalists as members of the Legislature than we do engineers. Maybe that's something to work on in the future.

Mr. Barry Steinberg: It may be a surprise, but we know it's a fact.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Grant Crack): Thank you very much, gentlemen, for coming before the committee this afternoon.

Mr. Barry Steinberg: Thank you very much.

The Chair (Mr. Grant Crack): You're quite welcome.

CARPENTERS' DISTRICT COUNCIL OF ONTARIO

The Chair (Mr. Grant Crack): Next we have the Carpenters' District Council of Ontario. I believe we have Nikki Holland and Mark Lewis as representatives. We welcome you both.

The floor is yours, sir. You have five minutes.

Mr. Mark Lewis: Thank you very much for hearing from us today. We are the Carpenters' District Council of Ontario. We represent all of the carpenters' construction local unions in the province of Ontario. Although probably no union would give you an honest answer to this, it's probably approximately 25,000 carpenters, journeymen and apprentices in the various fields that carpenters perform work in across this province.

We're here to speak in favour of this bill. We like anything which promotes and emphasizes the importance of infrastructure. I'm sure that won't surprise you, that a union comprised of construction workers would like that, and there are numbers of things that we like in the bill because we think it puts infrastructure in a broader context. I agree with the last speaker: We're very optimistic that if we can work out the right framework, infrastructure will mean something more than just metres of concrete and square footage of drywall; it will be something that's lasting way beyond the job sites.

What we really want to talk about, given the limited time, is the skills training and apprenticeship aspect of this bill, because we see it as key and one of the most important aspects from the view of our union and from our union's view of what this province needs for its future.

These job sites—construction projects across this province—mean a lot of different things to different people, but what they are to our union is classrooms. They are the places where the next generation of skilled workers, be they carpenters, electricians or operators, get their training. We need to promote that training.

We are facing a looming problem—I don't want to say "crisis"—but a clear, serious problem with respect to the next generation of skilled workers. Because of the demographics, because of retirement, because of immigration issues and changes, we will have a limited number of skilled trades workers into the future unless we take training our own youth seriously and make it a priority. We think that what this bill does, particularly section 8 of it, is provide a framework through which the government can promote that training opportunities maximize the amounts of training our young people can receive by setting the minimum requirements for apprentices on these various projects, which government will

hopefully fund over the next decade, I suppose, in the initial long-term plans and into the future.

It's critical for us. We cannot tell you how important it is to give our young people those opportunities. Obviously there are safety concerns, which Mr. Dillon spoke about; obviously there are set maximum ratios, which we don't want to have touched. But there is a cost to training. What we see this bill as potentially doing is putting all of the companies on a level playing field in terms of absorbing that cost.

This is a very competitive bid-oriented sector in terms of the companies that are going to be picking up this work and doing this work. What we are encouraging and what we are encouraged by in this broad framework is the ability of the government to set those apprenticeship numbers, those apprenticeship requirements at the front end, so that the contractors and all of their subcontractors down the chain—who are often the principal employers; often, the majority of the workforce is not employed by the general contractors, it's employed by the subcontractors down the line. What we would see as critical is that those numbers are put out up front. Everyone knows what targets they should meet. Everyone is therefore bidding on an equal footing, and we can maximize competitiveness along with maximizing those training opportunities. In that way, what we're hopeful of is, we're not just producing buildings, but we have a workforce for decades to come that has the necessary skills and training.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that, Mr. Hatfield.

Mr. Percy Hatfield: Welcome. Thanks for coming in today. Mr. Dillon talked about a 2-to-1 ratio of apprentices to journeymen. Is that the ratio that you favour as well?

Mr. Mark Lewis: The ratios vary by trade. We would favour the ratios set for each trade, but simply requiring the companies to actually have that number of apprentices on the job site, because what you find is that a lot of companies don't want apprentices, or don't want apprentices at certain terms within their contracts, because they would rather just get the efficiency of getting the work done, in and out, without having to do any training for the work—because, as I said, there are costs. What we like, what we think is optimal, is to have the apprentice ratios that have been set by the College of Trades but actually require that number of apprentices to be employed on the projects.

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Mr. Percy Hatfield: Are there apprentice carpenters?

Mr. Mark Lewis: Yes.

Mr. Percy Hatfield: And what is your ratio?

Mr. Mark Lewis: For the general carpenters?

Mr. Percy Hatfield: Yes.

Mr. Mark Lewis: It's three to one. For other aspects of carpentry—for example, drywall—it's a different level.

Mr. Percy Hatfield: You referred to job sites as classrooms, on-the-job training. What can be done to strengthen that aspect?

Mr. Mark Lewis: Well, getting companies to actually do it.

Mr. Percy Hatfield: But making it mandatory in any job bid? Is that what you're saying?

Mr. Mark Lewis: Yes. I think you have to look at the scale of a project. If it's a small project, then maybe you don't want to set minimum numbers, but certainly on the major infrastructure projects that we're looking at to be the focus of this bill, set the minimum requirements: "You must employ this number of apprentices on the job site."

Although we think this is a very good start, if we were left to our own devices, we would look to specify the term of apprenticeship, because our carpenters are first-term to fourth-term apprentices. We wouldn't want all the apprentices to be in their first term and just be seen as cheap labour, but to actually set the term so that you can see the follow-through and people are actually progressing to become journeypersons who have their certificates of qualification, who therefore can work anywhere in the province—across the country, in some cases, or across the border—with everyone knowing that they have the absolute best training.

Mr. Percy Hatfield: And what is your best advice to speak to, say, the parliamentary assistant to colleges, training and universities on how to get ready for the skills shortage that we're going to have in the future in skilled trades?

Mr. Mark Lewis: Promote apprenticeship training for young people in any way you can, and that's a multi-faceted approach. We need to change the mentality of so many people in our society who, for the best of reasons, want their children to go to college and university and see that as the pinnacle. But we also need people to become part of the skilled trades, and there's no reason that getting apprenticeships in what are complex, highly skilled, technical and, in lots of ways, very financially rewarding trades should not be seen as a pinnacle as well. I—

The Chair (Mr. Grant Crack): Thank you very much.

Mr. Mark Lewis: Sorry.

The Chair (Mr. Grant Crack): We appreciate it. Mr. Dong from the government side.

Mr. Han Dong: I would like to thank MPP Hatfield for bringing the importance of training, colleges and universities to this presentation. Thank you very much for the presentation. I'm going to share my time with MPP Dickson.

You mentioned that this bill, if passed, will help to level the playing field by setting the rules and requirements upfront. How important is it in terms of job creation? That's the opposite side of what MPP Hatfield was talking about, addressing the labour shortage, but I think long-term infrastructure investment, as we are well aware—we're investing \$130 billion in the next 10 years. We know that that's going to create a lot of jobs. But setting the requirement upfront: How important is that to job creation?

Mr. Mark Lewis: I think that setting the requirement upfront—its key importance to job creation will come at the end of the project. If you're going to build a building, if you're going to build a subway or a bridge, you're going to need so many labourers and so many carpenters. That's the hours of actual work, and that's going to be pretty stable whether you demand apprentices or not.

But what's clear is that after that job is done, in the future, if we're going to maximize the amount of employment in our trades, which is done within Ontario by Ontario citizens paying their taxes here, raising their families here, we have to have that training component on projects that are going on now to take into the future. So I would see it as key to job creation on two levels.

Obviously, spending money on building infrastructure creates a lot of jobs, and our members certainly appreciate that. But we want to make sure that there are carpenters, there are electricians, there are sheet metal workers who are Ontarians for the next 10, 20, 30, 40 years, who are going to be here, so that we let them raise their families here.

Mr. Han Dong: You're letting the industry know that we have skilled labour ready to—

Mr. Mark Lewis: Yes. We have construction companies here that have skilled labour which is the envy of the world that we can export. They can go and bid for jobs elsewhere and take our workers with them to build infrastructure in other countries or other provinces, which brings money back to Ontario.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it. We'll move to the official opposition: Mr. Yurek.

Mr. Jeff Yurek: Thanks for coming in today. A question: You had mentioned our shortage of skilled trades, which I totally agree with. I'd say we're already there in a number of trades, and it's only going to get worse as we grow. The idea of mandating trades apprentices at these job sites to increase training—however, you mentioned that you're kind of happy with the way the ratios are in this province. Wouldn't it be an idea to think of maybe mimicking ratios throughout the rest of Canada that would therefore be lowered and increase the amount of apprenticeships we could actually get on these job sites, to actually increase the amount of tradesmen graduating?

Mr. Mark Lewis: There are always going to be debates about where the ratio should be, and that's an ongoing debate. I think it behooves everybody to be flexible and to look at whether the ratios are too high or too low or should be varied, because we want as many apprentices as possible receiving the correct training and working safely on any site. That debate, we think, should happen within the College of Trades or some other body that's looking at ratios.

What concerns us more with this bill is not what the ratios are but making sure that they are actually followed on the projects which the government is funding and that we're not denying our young people the chance to do their apprenticeship hours on the jobs that are covered by this bill.

So on one side, I agree with you, but it's not our particular focus in this bill.

Mr. Jeff Yurek: Okay. With regard to enforcement, where would you see that task falling under? Who would enforce to ensure that there is actually the amount of apprentices on each site? Where would you throw that?

Mr. Mark Lewis: Well, we would try to enforce it if they were unionized contractors, and I'm sure the other unions would too. I would say that we'd be looking to ministry inspectors as well. Obviously, given the nature of these projects, you're looking at health and safety inspectors and College of Trades inspectors on there. I would say it would probably fall within the College of Trades—more than strictly health and safety—to make sure that if apprenticeship numbers have been set, they are actually followed through on, just in the same way that the College of Trades inspectors are enforcing apprenticeship ratios that they've set to make sure they're not being exceeded.

Mr. Jeff Yurek: Thanks, Chair.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate you coming before our committee and we appreciate your comments.

ONTARIO ASSOCIATION OF ARCHITECTS

The Chair (Mr. Grant Crack): Next, we have from the Ontario Association of Architects the president, Mr. Dreessen, and a policy analyst, Mr. Tracey. Welcome, gentlemen. You have five minutes, sir. Go ahead.

Mr. Toon Dreessen: Good afternoon. Thanks for having us here today. My name is Toon Dreessen and I'm the president of the Ontario Association of Architects.

Mr. Adam Tracey: And I'm Adam Tracey, the policy analyst.

Mr. Toon Dreessen: The OAA is the province's regulatory body, established by the Architects Act, "to regulate the practice of architecture ... in order that the public interest may be served and protected."

I'd like to thank the members who have taken the time to comment on the contribution of this province's architects during debate on Bill 6, formerly Bill 141.

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It's not often that we hear architects mentioned at Queen's Park. While we take that to be a sign that we do our jobs very well, the fact of the matter is that we would like to be more present during parliamentary debates and decision-making. This is perhaps the first time that the importance of architecture and the province's architects has been at the forefront of government discussions since the Architects Act was passed in 1984.

Naming architects specifically in this bill was a bold and commendable thing to do, and there's a good reason why the bill was written this way. I'd like to point to Mr. Fedeli's comments during second reading debate on May 6; I won't read it, but it's part of our written deputation. He points to the fact that the bill specifically names architects because the majority of infrastructure is

actually architectural. He highlights a figure of 60% of infrastructure being buildings.

That's worth repeating, because we do get caught in a discourse focused specifically on roads, bridges and transit. We must all work together to get back to a more balanced conversation about infrastructure, and architects must play a major role in that discussion, because it's architects who make the majority of infrastructure possible.

As the committee conducts its review of the bill, we'd like to stress that we don't want to see the purpose of this bill or the focus on architects diminished. We'd feel very strongly against any changes towards that effect.

Some MPPs, both past and present, have characterized this as a feel-good bill that lacks substance. The OAA would strongly disagree. Any legislation designed to further the involvement of architects is an important and long-overdue step in the right direction.

Clearly, we have a lot to say. In the brief time left, I'll comment specifically on a few items in the bill. We applaud the mandatory requirement for architects to be involved on large infrastructure projects, and for their discretionary inclusion on other projects. While we're happy with these provisions, we propose a legislative amendment that mandates consideration of whether an architect should be involved on smaller projects. If people aren't required to at least have that discussion about what an architect would contribute, there will undoubtedly be lost opportunities for the province, as well as lost value.

We also applaud the focus on design excellence. Design excellence recognizes the innovative skills of Ontario's architects in creating spaces, buildings and communities that respect and enhance the environment and enrich human activity.

Design excellence is measured through five key criteria:

- creativity: the innovative nature of the design solution;

- context: the contribution a project makes to its unique location, to neighbouring uses and to community building;

- sustainability: towards sustainable objectives, including a reduced ecological footprint and reduced dependence on fossil fuels;

- good business: the degree to which the project supports and interprets the business and architectural goals of the client through programming and design; and

- legacy: how the project establishes a new benchmark for architectural elegance and leaves an enriching and enduring icon for future generations.

We've heard wonderful examples of these kinds of projects during debate.

Given the importance of design excellence, we're concerned that it's only referenced in the "Purpose and Interpretation" section of the bill but doesn't reappear in the body like other principles such as job creation and economic growth. We'd ask for design excellence to be integrated into the body of the bill, most likely in section 3.

MPPs have rightly pointed out how every dollar invested in public infrastructure significantly raises the GDP. This is important, but there's still a missing part of this puzzle, which was alluded to by Minister Murray. He commented that "good design doesn't cost any more or less than bad design." The OAA would go a step further and argue that good design can cost significantly less.

The Federation of Canadian Municipalities released a best practices document entitled *Decision Making and Investment Planning*. In the section "Lifecycle Savings Through Design Innovation," the FCM concludes that there is an 11-to-1 return on investment over the life of an asset, so the money invested upfront during the design stage into innovation, into design excellence, has a huge return for the government and for the people of Ontario.

I know our time is brief, so I'll close our remarks here. I'd like to thank you again for the opportunity to speak today and invite any questions or comments you have.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Dreessen. I will move to Mr. Milczyn from the government side.

Mr. Peter Z. Milczyn: Good afternoon, Mr. Dreessen. Thank you for coming to Toronto to depute on this.

You mentioned in your deputation the principles of excellence in design. There are a couple of items that I wanted to focus on. One was the creation of a sense of place; whether it's a hospital, a school or a bridge, there are contributions being made in the design of that. The other one that I know is also a particular interest of yours is design that ensures greater resiliency and improves the performance, the longevity and the presence, big-P sense, of whatever is designed or built. By embedding that as a principle of our infrastructure planning, do you think that's going to have real benefits for the residents of Ontario?

Mr. Toon Dreessen: Absolutely. I think that design excellence, when it's integrated from the start of a project, from the beginning of the request-for-proposal process, including how the architectural services are procured right through to the end stages—commissioning and so on. If design excellence is the filter through which we put everything, from the selection of the consultants to a quality-based process—all of that has an enduring and lasting impact on the design by creating a culture in which we value the design excellence and investment that goes into that so that there is an opportunity to creatively explore the right design solution rather than the predetermined one. That opportunity presents enormous value for the people of Ontario, for the government, for all parties invested in the design to see a positive design solution that's created so that we get buildings that endure and last, that are forward-thinking and have the innovative ideas that maybe this generation might not see or use, but the next generation will.

Mr. Peter Z. Milczyn: Do you think the approach that we're taking in terms of trying to implement a decision-making matrix and framework for long-term infrastructure planning will not only benefit all Ontarians

by creating the infrastructure, but your profession in particular in ensuring that there's a continuity of ensuring improvements to design, improvements to the use of materials and innovation in design and use of materials, and that that, as a continuum, will benefit the quality of infrastructure that's built and the utility that it provides?

Mr. Toon Dreessen: I think anything we can do to strengthen design excellence, including the procurement process, including the opportunity for architects to do what they do best, which is be creative, is going to help the economy, help secure jobs, help ensure that Ontario is a leader of built form, and forward-thinking—anything that we can do, anything that this government can do to ensure that is going to have a positive impact.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it. Ms. Thompson.

Ms. Lisa M. Thompson: I found the whole principle of excellence in design interesting. You talked about the value that could be added from introducing it right from request for proposal through to commissioning. As you know, in Ontario, tax dollars are hard to come by. People have less and less in their pockets.

You've done a lot of work on this concept. I was wondering, have you also done a cost-benefit analysis of how much embedding the design excellence concept would add to the overall cost of a project?

Mr. Toon Dreessen: It's marginal. It's in the single digit or less percentage points to recognize the value of design excellence. The Federation of Canadian Municipalities's best practices guide says that it's an 11-to-1 payback on integrating design excellence and best practices through the design. By creating a culture in which a quality-based selection process in which design excellence principles are the filter through the entire project—not just one, select portion, but through the selection, the procurement, the tendering process, all of that is through a quality-based process—we would see untold payback in value, in contributions to the local economy through job creation, through skills creation.

Ontario architects are recognized around the world as being innovative forward thinkers. We need to find opportunities to strengthen that vision at home by giving those Ontario architects the opportunities to explore those innovative ways of creating design solutions in projects related to infrastructure: schools, hospitals, bridges—all of that needs to find a home.

Ms. Lisa M. Thompson: Very good. Would you be able to provide the background to the numbers that you provided?

Mr. Toon Dreessen: Absolutely.

Ms. Lisa M. Thompson: Thank you very much.

The Chair (Mr. Grant Crack): Thank you. Mr. Yurek.

Mr. Jeff Yurek: Thanks, gentlemen, for coming. The engineers mentioned that they should also be included in this legislation as well. I just wanted your thoughts on giving mention to engineers, much like the architects have been in the bill?

Mr. Toon Dreessen: We don't have any objection to engineers. In one sense, we're sort of playing on the same team. We'd like to see more investment.

The challenge, I think, is that when you think of infrastructure and you think strictly of engineering, the focus tends to be on a bridge, a sewer or a road. We need to get back to a more holistic understanding of what infrastructure really means. It's not just about shovel-ready projects that are instantly ready and can be funded with the nearest grant, but long-term projects that are looked at for the horizon as to how communities will grow and evolve over that 10-year period of time.

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Mr. Adam Tracey: I would just add that we've written a letter supporting the engineering amendment. It's not something that we oppose, so hopefully that doesn't come across the wrong way. As we've said, we don't want to lose focus of what the bill is about and the type of infrastructure that the province really builds and uses.

The Chair (Mr. Grant Crack): Okay. Thank you very much. We appreciate that. Mr. Hatfield.

Mr. Percy Hatfield: I'm glad you mentioned that, Adam. For a while there, I thought we were going to have a turf war between architects and engineers.

Mr. Toon Dreessen: No, not at all.

Mr. Percy Hatfield: Anyway, it's good to know that you're supporting them. I hope the government side remembers that the engineers do have support in what they would like to see included in the bill.

If I can go back to good design versus the cost—design excellence. We have a beautiful art gallery in Windsor. Those of you who have been there recently know it's like the prow of a ship. It's all glass. It looks great, but you can't hang any art on it, and it causes great humidity problems throughout the building. But it looks good, right?

Design excellence should take into account—should it not?—that there's more to any design? You have to look at all the other things that fall into place behind that.

Mr. Toon Dreessen: That's right. Design excellence is not just pretty. It's not just sustainable. It's not just contextual. It's a combination of all of these elements. In every building, architecture is a practice. It's something that is an evolving process.

I can't speak specifically to the Art Gallery of Windsor. I was at that art gallery maybe eight years ago. I don't remember—

Mr. Percy Hatfield: Oh, I love it. Don't get me wrong.

Mr. Toon Dreessen: It's a beautiful building, but there are elements when we look at design excellence—the Fraser Mustard school, which won a design excellence award here in Toronto at our gala last month. These are buildings that are spectacular and really rise above and create an enduring legacy.

When we think of something like the Bloor Street viaduct, the design foresight and the view that went into planning that with subway tunnels that weren't going to

be used for years—that kind of design excellence stands the test of time, looks beautiful, is enduring, high-quality, functional, and lasts. That kind of design excellence is what we're talking about: that foresight, that innovative thinking, that out-of-the-box creativity that solves not just today's problems, but tomorrow's problems as well.

Mr. Percy Hatfield: Has your association given any thought to the value of any future infrastructure project where you feel an architect should be involved? Is there a ceiling or a low basement on that?

Mr. Toon Dreessen: We don't think that there's any project that wouldn't benefit from at least the question, "How could an architect involved in this project help in some way?" It may be that in the analysis it turns out that maybe you don't, but it's sort of like when you think of all the different cars you could buy; you might filter all of them, but you're going to think of the ones that are practical. So in the same way that you'd look at any infrastructure project, you need to say, "How could an architect benefit any of these? Okay, maybe that one—maybe that sidewalk project, that sewer project—or maybe not, but maybe these other ones, these small community centres, these \$5-million projects"—whatever they are, there is some benefit to there being an architect being involved from the get-go to at least coordinate, question, assess the parameters and make the right design decisions early on, to be part of that process.

Mr. Percy Hatfield: Just one final quick question, if I could, Chair: Does your association have a policy on public art? Is there a percentage of a total infrastructure project that you feel should be dedicated to public art, sculpture or something in connection with the design of the project?

Mr. Toon Dreessen: Not really, no. There's no specific threshold. We encourage the involvement of all design aspects. Whether that's an architect designing the railings or opportunities for public art, there are certainly opportunities where we could see that happen, but in terms of a percentage or a funding model, I'm not aware of anything. Are you?

Mr. Adam Tracey: No. I was just going to add that I think this has actually come through my inbox in, I would say, the last couple of days. I think it's a conversation that we're actually about to have in the very near future, because I know that people have talked about tying a percentage or a number to art. The association will—

Mr. Percy Hatfield: I encourage you to follow up on that. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate you both coming before the committee.

Mr. Toon Dreessen: Thanks very much.

ONTARIO GOOD ROADS ASSOCIATION

The Chair (Mr. Grant Crack): Next we have, from the Ontario Good Roads Association, Mr. Scott Butler, who is the manager of policy and research. Welcome, Mr. Butler. You have five minutes, sir.

Mr. Scott Butler: My name is Scott Butler. I'm the manager of policy and research for the Ontario Good Roads Association. Our mandate is to represent the municipal infrastructure and transportation interests of 433 of Ontario's 444 municipalities.

I'm here to speak in favour of this bill, with a small amount of trepidation. It seems that for too long infrastructure planning and infrastructure stewardship in Ontario seemed to operate without realizing the full potential of asset management planning principles.

Five years ago, OGRA began an advocacy campaign here at Queen's Park targeting all three parties, seeking to have asset management planning made mandatory for municipalities looking to receive provincial funding dollars. It was a rather long and arduous campaign, but nonetheless we were ultimately successful, and we're starting to see and realize the full benefits of that now. In part recognizing the benefit that asset management planning provides, we're happy to speak in favour of the bill.

There are two areas of concern, though, when we look forward with regard to Bill 6. These are largely to do with the objectives of the bill actually being realized above and beyond implementation.

First, in order to ensure that the objectives of Bill 6 are actually realized, we feel it's incumbent that municipalities, as the primary stewards of the majority of infrastructure in this province, are given some sort of opportunity to collaborate in terms of prioritization of the objectives contained in section 3. This is even more important when we look at recent history, where infrastructure program funding has tended to be tripartite in nature. Municipalities have oftentimes been the last ones to find out exactly what those objectives are—and we hear the term “shovel-ready projects” thrown about. This isn't really consistent with any sort of asset management planning principle. To overcome this scramble that invariably takes place when these programs are announced, we'd like to make sure that municipalities are given an opportunity to collaborate and help identify which of those principles are going to be prioritized.

The second area of concern for us refers back to asset management planning standardization. Currently, the province requires municipalities to have AMPs on record and filed if they're to receive any provincial funding. We've been arguing for a number of years now for greater standardization of those plans. This includes a data standard, as well as some sort of central repository where that information can be catalogued and put into a database that would allow that decision-making to take place. Unfortunately, the effects of mandated asset management plans to date haven't really been realized.

If we look at the data standard, there are currently four different ways to measure the width of a road in Ontario. All of them are acceptable. What this does is it leaves a fairly wide amount of leeway in terms of what the asset we're actually talking about is. That's one of many examples when you have these competing standards. In order for the province and municipalities to realize the full objectives of this bill, it's going to be incumbent

upon coming up with some greater standardization and tightening up the expectations that the province has.

That said, as I indicated earlier, we're happy to speak in favour of this bill. But we feel that, as a proper first step towards realizing a long-term objective of providing the people of Ontario with the assets that they've come to expect from all levels of government—we're happy to support it, but we would encourage the province to begin deliberating how exactly it is that they can enhance some of the objectives identified in the bill.

The Chair (Mr. Grant Crack): Thank you very much, sir. We appreciate that.

We shall start with the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Thanks for being here. You spoke about AMP. When I reflect upon the municipalities in my riding of Huron-Bruce, when it comes to bridges and whatnot, I'm hearing a lot of frustration that they're applying for funds but they're in essence being told, “Fund it on your own.” Literally, they've received letters from the government, from the province saying, “Why don't you take a loan out and do it yourself?” In essence, it almost feels like the government is passing their debt load along to the lower tier, and they're very frustrated about that.

1520

How do you reconcile municipalities that have done a really good job managing their assets and they get penalized for it? Do you talk about that at Good Roads?

Mr. Scott Butler: We do, extensively. The reality is that because of the lack of asset management oversight previous to this, there has been a great degree of variation between the quality of how municipalities have maintained their assets.

One of the things we've realized, and it applies specifically to bridges, is that in a study we undertook in relation to the Residential and Civil Construction Alliance of Ontario—together, we looked at bundling assets. Is it possible that a series of lower-tier municipalities might get together, bundle all of their bridges and pursue an AFP to see if there's a possibility? The study came back and identified two things: Yes, it seems that there's some potential there, but the primary obstacle was that there was too much uncertainty, that the data was too incongruent to actually afford the private sector any opportunity to bid with certainty on projects.

We think that an incremental process, where we're increasingly elevating the standards of asset management plans, may be an opportunity to address some of those long-standing grievances municipalities have. It may also provide a bit of an opportunity, if you begin looking at bundling the assets, to level some of the playing field, where municipalities that have significant needs may be able to partner with neighbouring municipalities that may not have significant needs. It may be able to aggregate costs and realize some efficiencies that way.

Ms. Lisa M. Thompson: Okay.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that.

We'll move to Mr. Natyshak from the third party.

Mr. Taras Natyshak: Thank you, Mr. Butler, for being here. It's good to see you.

We know municipalities must have collaborative opportunities through—you referenced section 3. Is there a comparable mechanism in other jurisdictions that enables municipalities to have a voice when it comes to asset management planning?

Mr. Scott Butler: I honestly can't speak to that. One thing I can say is that the province does have an MOU with AMO. That would be, I would think, without giving it much thought prior to this, an easy avenue for beginning those discussions.

Mr. Taras Natyshak: So that's the mechanism through the MOU currently, develop a system—

Mr. Scott Butler: Yes, I guess. It's just—

Mr. Taras Natyshak: It's right there in front of us anyhow, so why not—

Mr. Scott Butler: Yes. There's no need to reinvent the wheel or, God forbid, create a new bureaucratic process.

Mr. Taras Natyshak: For other jurisdictions that have standardized AMPs, what does it look like, where can we look at it, has it delivered the results in which we're all looking for the efficiencies and effectiveness of asset management and—

Mr. Scott Butler: There are a couple of jurisdictions that stand out. British Columbia is a little further down the road on some of this, and they've begun to realize some efficiencies. When you look at the performance the province has had out there recently, it seems to validate the fact that certainly at the local level, in terms of collaboration between local government and senior orders of government, they seem to be able to move very fluidly in terms of building out and acting on initiatives.

Australia is held out as a model example for whatever reason. They have a longer history of this, but the reality was that the senior orders of government in Australia made a commitment, and they were very rigid in terms of their expectations, in terms of what local orders of government had to do in order to access those pools of funding.

As a first step, as I said, this is a good effort. We want to see it elevated so that the objectives are realized in a collaborative way.

Mr. Taras Natyshak: Do Australia or British Columbia have a clearer, more dedicated, streamlined commitment to funding than Ontario would have?

Mr. Scott Butler: I couldn't speak to that.

Mr. Taras Natyshak: But you're saying that they tie the metrics to funding through the provisions of their asset management plans. They have to have their books in order, so to speak, and the data compiled to—

Mr. Scott Butler: Yes. Well, when I was referencing the data earlier—the cliché, of course, is apples to apples and oranges to oranges, or in this case one of four possible road widths to one of four possible road widths. I recognize it sounds very esoteric, but you need a data standard in order to be able to provide the certainty and in order to be able to ensure that municipalities and the

province, when they're speaking together to prioritize whatever asset class it is they want to take action on, they're actually talking the same language.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it.

We'll move to the government side. Ms. McMahon.

Ms. Eleanor McMahon: Hi. How are you?

Mr. Scott Butler: I'm doing fine.

Ms. Eleanor McMahon: It's nice to see you.

Mr. Scott Butler: Likewise.

Ms. Eleanor McMahon: Building on my colleague's questions a little bit, could you give us some more examples of how the province can best support the AMPs? To your earlier point, you were talking about a data standard, a greater standardization. If you can do two things with some specificity, it would be great: Give the committee an example of what that might look like, and, within current operating procedures now or in a future, better state, what that might look like—to help you do your work?

Mr. Scott Butler: Sure. I'll go back again. We like the road width one because it seems to be the one that's most widely understood but also somewhat the most comical. Municipalities maintain roughly 301,000 lane kilometres of road. The difference between the narrowest measurement and the widest measurement is actually about 1.2 to 1.4 metres. If you aggregate that out across 301,000 lane kilometres of roads, we're talking about a substantial variance between what the narrowest possibility of that might be and what the widest possibility might be.

When the private sector is looking to bid on contracts, when municipalities potentially could be looking to bundle initiatives together, it's important that everybody has the same definitions, the same standards in place, so that they, again, are talking apples to apples and oranges to oranges. In terms of what that would mean from the provincial side—and I recognize it's somewhat strange for a municipal association to ask the province to afford even more oversight on something—what we would like to see is the province begin standardizing what they accept as an asset management plan, become more prescriptive in what is in and what is out in terms of the AMPs that municipalities file. That will allow them to begin aggregating that information in a much more cohesive way, and it should provide them with the insight that they need to make the investments that they want to make.

Ms. Eleanor McMahon: That's helpful. I assume you've been prescriptive in terms of supplying this information to us so that we can begin to do this, which will be helpful for you from a planning point of view.

You talked about a database earlier, a data repository. Not to get too granular, but is this something you would envision that the industry could maintain or is this something that the government should be looking at doing?

Mr. Scott Butler: Well, there are lots of them out there. In 2004, OGRA began to put together an asset

management application that allows small municipalities to catalogue and inventory their assets. It's a wonderful data model. It's just like Google, except we don't have the billions of dollars behind us in order to actually roll it out. But it's free to municipalities to use. There's no shortage of private sector options as well. Obviously, the needs of somebody like Toronto are much different than, say, Manitouwadge. So what we would like to see is that guidance from the province in terms of establishing something. How they manage the data they receive now I'm not necessarily certain of. But it would seem to me that if they're going to fully embrace asset management planning and include the broader public sector, including municipalities, they're going to need some sort of repository that will allow that information to be aggregated.

Ms. Eleanor McMahon: That makes sense.

Thank you, Chair.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it, Mr. Butler.

Mr. Scott Butler: Thank you.

The Chair (Mr. Grant Crack): Have a great afternoon.

ONTARIO NON-PROFIT HOUSING ASSOCIATION

The Chair (Mr. Grant Crack): From the Ontario Non-Profit Housing Association, we have the executive director, Mr. Kerur. You have five minutes to make your presentation. Welcome, sir.

Mr. Sharad Kerur: Thank you very much, Mr. Chairman and committee members, for permitting me to be here today. My name is Sharad Kerur. I'm the executive director of the Ontario Non-Profit Housing Association. I'm here today representing 760 member organizations which are responsible for providing homes to thousands of people across Ontario.

By providing housing that families can afford, social housing providers play a key role in helping Ontarians lead healthy, happy and productive lives. Social housing is not currently listed in the definition of infrastructure contained in Bill 6. I am here today to recommend that this be remedied.

1530

Including social housing in the definition of "infrastructure" will make explicit municipalities' discretion to apply future infrastructure funding to housing assets that are under their administration. It is also an important way that the province can support the social housing sector and municipalities at no additional cost.

Right now, the future of social housing in Ontario is in peril. Municipalities are grappling with the need to repair crumbling social housing assets as the outstanding capital repair bill has climbed to as high as \$2.6 billion. Housing providers have admitted that they may have to start closing units that are no longer safe for people to live in. Social housing is an investment that taxpayers have funded over the past 50 years, and it is currently at risk.

Bill 6 has been tabled by a government that is keen to use infrastructure investment to build up Ontario. In the bill, the connection between infrastructure and economic growth is clearly outlined. Like schools and hospitals, social housing infrastructure is vital for economic growth, creating jobs while simultaneously providing an important public service to Ontarians.

In previous budgets, the province has invested in social housing in order to create jobs and boost the economy. Moreover, social housing providers are already listed as eligible to receive infrastructure financing under the Ontario Infrastructure and Lands Corporation Act. Aligning Bill 6 with this legislation would provide clarity on the government's intent.

Over the past 10 years social housing waiting lists in Ontario have swelled by more than 40,000 households. There are currently over 168,000 families, seniors and single adults waiting for up to 10 years for an affordable place to call home.

At the same time, housing providers are forced to close units that have become unsafe due to the lack of funds for repair and revitalization. Again, amending the definition of infrastructure in Bill 6 to allow municipalities access to direct funding to social housing assets in need of repair would bring us one step closer to an Ontario where everyone has access to a safe, secure and affordable home. Thank you very much.

The Chair (Mr. Grant Crack): Thank you very much, sir. You only used three minutes. That's fantastic—very efficient.

Mr. Sharad Kerur: Brevity in the social housing sector, Mr. Chair.

The Chair (Mr. Grant Crack): We shall start with the government side. Who's up? Mr. Milczyn.

Mr. Peter Z. Milczyn: Thank you, Mr. Kerur, for your presentation this afternoon. You made the point that social housing is a piece of infrastructure that had been funded for 50 years in this country. Could you speak a little bit to the benefit that long-term infrastructure planning could have broadly for all infrastructure and certainly specifically for social housing as well?

Mr. Sharad Kerur: I think you hit on the very point in terms of "long-term" and "planning." Right now, funds that are provided through various programs, such as the investment in affordable housing, are really time-limited. Typically, those funds have been mingled in with federal contributions, and usually the federal government is the one that sets the time frame on the use of those funds. I think ongoing, flexible funding through an infrastructure plan would allow for a much longer time frame in terms of being able to determine, according to good asset management plans, what needs to be repaired today versus the mid term, versus the long term.

Mr. Peter Z. Milczyn: So part of your presentation today is that you'd like to amend the definition of "infrastructure" contained in this.

Mr. Sharad Kerur: That's correct.

Mr. Peter Z. Milczyn: What do you think would be the net benefit of doing that in terms of social housing in the long term?

Mr. Sharad Kerur: I think two things. First of all, there would be a clear signal from the province that social housing is part of local infrastructure. That's a clear element. In fact, the Premier of Ontario, in previous speeches both as Premier and formerly as the Minister of Municipal Affairs and Housing, did, in fact, say that she regarded social housing as being part of infrastructure.

This would also help to provide better guidance to municipalities that want to be able to provide funds towards social housing as part of their planning process, even where it isn't explicitly stated. Municipalities typically require some direction in terms of the allocations that they are provided for funds. This would be, again, a clearer way to be able to give them that direction as well as some discretion.

The Chair (Mr. Grant Crack): Okay. Thank you very much.

Ms. Thompson, from the official opposition.

Ms. Lisa M. Thompson: Thanks very much for being here. When we think about poverty in Ontario, we hope we have a government that is tuned in to the needs, but hydro costs keep soaring, the ORPP—it's a job tax on both the employee and the employer. Now we're hearing, and you're confirming it today, that there are waiting lists for social housing, and that in the last 10 years, you specifically point out, the waiting list has swelled by more than 40,000 households. So my first question is: Have you been consulted, or has the government reached out to you to discuss Bill 6 prior to today?

Mr. Sharad Kerur: We have not explicitly been consulted on Bill 6 per se. We do typically get approached by the government through a variety of different ministries that touch our members directly. Bill 6 doesn't necessarily touch our members directly. It in fact touches our members by virtue of the way housing is administered and funded, so it really is a support for our municipalities.

Ms. Lisa M. Thompson: Okay. Very good. My second question is: With regards to the number 40,000, can you tell me where those 168,000 families, seniors, and single adults are, in terms of regions? How would you divvy that up?

Mr. Sharad Kerur: Well, the vast majority of that increase is of course in the larger urban centres, so typically Toronto and Ottawa would absorb the largest numbers.

The number is based on existing social housing waiting lists. We admit in our reports over the years that those numbers we regard as being minimum numbers, because in areas such as rural Ontario or in small urban Ontario or in northern Ontario, we don't really know whether in fact that number is accurate. We think that it's probably a lot higher, because people may choose to not put their names on social housing waiting lists, recognizing that there are long wait times.

Ms. Lisa M. Thompson: I appreciate that. Thank you. That's it.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the third party. Mr. Natyshak.

Mr. Taras Natyshak: Thank you very much, Mr. Kerur. Are you aware that there's nothing that prohibits

the government at this very moment from making long-term social housing planning?

Mr. Sharad Kerur: I'm not aware—

Mr. Taras Natyshak: They could absolutely do it today, on their own regard, without Bill 6 at all. They could make a commitment to X amount of social housing units over X amount of years and, of course, tied with X amount of dollars. So we view this bill as obviously something that is welcome, but aspirational, in the sense that they could certainly do it without the requirement of this bill.

A real easy question for you to answer: What has led to the backlog of 40,000 households and 168,000 families waiting for social housing?

Mr. Sharad Kerur: Well, a couple of things. One is that the provision of housing is largely a marketplace-driven exercise right now. So, as we see the price of housing, largely around home ownership and around condos, there's been little provided in the way of purpose-built rental and even less so in terms of affordable rental and certainly even less with respect to rental that meets the needs of low- and moderate-income people. Whenever you have prices going up and supply going down, you have, naturally, a big backlog in terms of the people who are trying to access that very limited amount of affordable supply.

Mr. Taras Natyshak: Bill 6 is about establishing priorities when it comes to infrastructure. I think your recommendation is quite reasonable. Would you, and would the Ontario Non-Profit Housing Association, prioritize the priority of social housing, in a sense address those acute areas of need and acute demographics—those with disabilities, those who are marginalized populations? Have you done that type of exercise?

Mr. Sharad Kerur: We haven't done that exercise explicitly, but I think by including the definition of social housing in infrastructure, you are in fact allowing that prioritization for social housing to bubble up to the top.

Mr. Taras Natyshak: Great. Thank you very much. Thanks, Chair.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Kerur, for coming forward this afternoon. We appreciate it.

Mr. Sharad Kerur: Thank you.

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ONTARIO GENERAL CONTRACTORS ASSOCIATION

The Chair (Mr. Grant Crack): We have the Ontario General Contractors Association next. We have the president, Mr. Thurston, and the director of government relations, Mr. Frame, I believe, with us this afternoon. Welcome, gentlemen. You have five minutes—is the chair stuck? Good job.

Mr. Clive Thurston: It's a good thing I'm a contractor.

The Chair (Mr. Grant Crack): Exactly. Welcome, sir.

Mr. Clive Thurston: Thank you very much, and we very much appreciate the opportunity to be here today.

The Ontario General Contractors Association represents over 200 members working in the province of Ontario in the construction industry. On average, we do \$10 billion worth of work in this province every year. If it's big, beautiful and ugly, we build it. We work in many areas in this industry, including health and safety, education, excellence and contracts and procurement.

We have worked with various ministers of infrastructure over the years, and it has been very supportive of the government's commitment to long-term investment and strategic investment in infrastructure. It's a vital part of the economic plan.

This bill supports and extends the principles of strategic long-term infrastructure planning by extending them to the broader public sector, with a focus on laying a foundation for the province's economic growth.

We want to touch on three parts. Section 3, making decisions: The bill proposes to establish a list of planning principles. This requires the province and the broader public sector governments to implement these processes and procedures with the purpose of enhancing the quality and the economic benefits of our infrastructure assets. These are important principles, and we fully support the intention to establish the practices into law.

The intent is to maximize the long-term benefits of the investment. OGCA proposes that it should include established procurement and tendering processes in order to produce value for money for the project and the taxpayer.

Broader public sector buyers generally are not experienced or equipped to tender, award and manage construction projects. Their procurement experts are very capable of managing most of the purchasing needs, but our experience is that the broader sector of infrastructure procurement is wasting literally hundreds of millions of dollars every year in Ontario.

It is a result of poor planning that bids are coming in over budget. There are numerous change orders and delays that can add years to a project, not to mention the litigation. Our experience is that professional procurement and contract management using standard industry documents will avoid the majority of these challenges and return greater value for money.

Many broader sector entities currently pay a significant premium. They are known to have tenders that contain unreasonable requirements, often related to transferring risk, and issue plans that are incomplete and require numerous change orders. Some of our members will not bid many of these municipalities, school boards and transit authorities due to what we call the "aggravation factor." Those who do bid generally add significant additional cost to their tender.

We recommend that Bill 6, under section 3, also recognizes and incorporates the principles of effective procurement, tendering and contract management. The intent is to maximize the value of the investment and reduce delays in project delivery.

I'd like to next address section 7. The design of an infrastructure asset is a complex process that involves a number of professionals. Section 7 requires that an architect or "a person, other than an architect, with demonstrable expertise in and experience with design in relation to infrastructure assets" be involved in the preparation of design. This we fully support.

We are concerned that the critical design at the very least involves the engineering process as a fundamental component of the design, utility and longevity of the asset. For that reason, we fully support the recommendations of the Consulting Engineers of Ontario to include engineers in the preparation of design under section 7 of this act.

Support for apprentices: I was very happy to hear our friends from the carpenters actually admit, finally, that general contractors are not the ones in charge of the apprenticeship program. I was surprised he said that.

OGCA actively participates in outreach programs to support the establishment of apprentices in the construction industry. We recognize that we have a responsibility to provide apprentice opportunities, and we support the bill's goal to expand the opportunities for apprentices. However, we are supporting an amendment to this section to move it away from apprenticeship quotas and replace it with requirements for an apprenticeship plan.

The bill's proposal to prescribe numbers of apprentices through the tendering process is totally impractical. The general contractor who bids on the tender and signs the contract will be asked to guarantee the required numbers without having control of the workforce. The general contractor manages the project, usually with a core of supervisors and tradespersons. The work is subcontracted to the trades who are not a party to the tender and who have control and responsibility for their own workforce.

We are confident the intent can be fulfilled by a requirement of a plan requiring contractors involved in the project to track their apprenticeship participation and be accountable for the results. This fulfills the intent of this proposal to provide apprenticeship opportunities for all the trades that are involved.

This bill is principled in its nature and should continue that approach with apprentices. A requirement that all contractors and subcontractors participate in an apprenticeship plan and report on its implementation and achievements will meet the intent of this proposal. This approach is enforceable, it's flexible, it's administrable and it's fair, and it will produce the results that the bill intends.

With that, I'd like to thank you again for the opportunity to participate. Hopefully, you have time for more discussion.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Thurston.

We shall start with the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thanks for coming in.

I appreciate your comments on section 3 about instead of continually always having legislation go towards the

private workforce and trying to control what they do, maybe the bureaucracy themselves can get their house in order and actually be competent in delivering these tenders out to people.

I'll tell you one thing: One of the many reasons I got into politics is something I heard behind the pharmacy counter all the time: how overrun every single project seems to be done by any government that's in power. It drives people nuts. They would like to see 100% of the money go towards building whatever infrastructure they need, but at the same time come in on budget, like any other business has to do in this province; otherwise, they just can't go forward.

I'm very glad to see that you've made comment that if we could actually get our house in order here, as the government, and decrease the change orders, delays and maybe have some come out on budget, we would have more money for other projects.

You heard the gentleman beforehand talk about social housing. Maybe we would have some money for social housing on the side instead of having to take it from our infrastructure programs in order to provide it.

Anyway, I just wanted to say those few things. You don't really have to comment on them.

Going to the ratios: You made a good point that the contractors really have no say over the ratio issue. Perhaps the problem isn't the fact that we need to legislate how many apprenticeships to have. Maybe we need to look at our ratios in the trades to start with, to open up more opportunities so the subcontractors could actually bring in more of the apprenticeships on their own. They would be more able to do so, not having to hire so many journeymen to have those apprentices. Do you have any comment on that?

Mr. Clive Thurston: The ratio issue, as you heard earlier, is a fairly touchy one. I noticed that my friend from the carpenters refused to answer the question on whether 3 to 1 was any good, and that doesn't surprise me, considering they are such supporters of the College of Trades.

Yes, there is a problem in opening things up. This is one of the problems we have with legislating quotas. If you've got three journeymen to an apprentice, and you're starting a job and you're told you have to hire 10 apprentices, you've got to hire 30 journeymen. What if you only need 15? No thought went into that. We don't control that. That's the law.

If this bill went ahead and set quotas and said, "On a job of this size, you must hire X number of carpentry apprentices," then we have to hire three times as many journeymen. That increases the cost of the project. It affects the viability of the project and the ability to deliver it in an efficient manner—something else my friend from the carpenters mentioned, about us being interested in delivering our projects on time, on budget, and efficiently. Is that such a bad thing? I loved him saying that, but I don't understand what his point was.

We want to deliver projects properly. We want to hire apprentices. But our hands are tied based on the rules that

are there. If the winning bidder is required to put a plan in place, he can then sit down with each of his subtrades that he's hired for that job and say, "What are your rules? How many can you hire?" He can get all that information right at the start, before it starts, put his plan together and say, "We're going to be hiring this many electrical apprentices, mechanical apprentices, drywall," whatever. But you can't do that prior to the tender. You just can't do it.

1550

The Chair (Mr. Grant Crack): Thank you very much. Appreciate the comments.

Mr. Natyshak from the NDP.

Mr. Taras Natyshak: Thank you so much. You've raised some really interesting points and important points. I think you're making a case against the continued usage of P3s to finance and build the majority of our infrastructure projects in the province, are you not?

Mr. Clive Thurston: No, that would get me fired.

Mr. Taras Natyshak: Can someone really fire you?

Mr. Clive Thurston: Oh, yes. Have you met Geoff Smith? Trust me.

Mr. Taras Natyshak: You're sort of melding them in with municipalities, school boards and transit authorities in their usage. The bill doesn't cover municipalities or school boards. It may touch on transit authorities; I'm not certain. But you're aware that we can't talk about how they finance, right?

Mr. Clive Thurston: No, but they generally will follow good practice, and if the province is following good practice, the municipalities will quickly fall in line.

Mr. Taras Natyshak: Was it not the case that the Ministry of Transportation, as well as Infrastructure Ontario, had up until recently a lot of resources and a lot of good practices and a good track record in financing, designing and managing projects?

Mr. Clive Thurston: Yes. We've had 10 years of it now, 12 years of it. We've built a whole ton of hospitals, which we would not have built, and it works. The thing with AFPs or P3s or whatever you want to call them is they are one tool in the box. They make sense for certain kinds of projects.

Just as bundling, which my friend from Good Roads mentioned—bundling can make sense in certain aspects. What I always discovered is, it makes no sense in doing schools, as Alberta has found out, and others. Don't just bundle projects to come up with the financial number because it fails, and IO is aware of this, but it does work for certain kinds of projects, if you do the preplanning and the research.

Same with a P3. A P3 can work as long as the proper planning—and IO has been, I would say, very good at that, I think mostly because IO has a major open-door policy with this industry. We actually sat, myself and others, on the planning committee that set up IO, so we were given that opportunity to speak. To this day, there are regular meetings between the industry—you saw some of my predecessors here, the engineers and that. We're all part of an alliance that meets regularly with IO

to talk to them about best practices. Have they always followed our advice? No. But that's why we keep talking.

So yes, we're not against P3s. They work. They should be used where they make sense, but we need to make the argument that it makes sense.

The Chair (Mr. Grant Crack): Thank you very much. Appreciate it.

We'll move to the government side, Ms. Kiwala.

Ms. Sophie Kiwala: Thank you so much for coming here today. I have had some experience being a general contractor, so I—

Mr. Clive Thurston: I'm sorry.

Ms. Sophie Kiwala: A very light level compared to what you're doing, so I do appreciate your work and the complexity of some of the different areas that you need to be mindful of. Certainly, coming in on budget is critical for maximum benefit to our economy and for our communities.

I know you've had some discussions with the Minister of Economic Development, Employment and Infrastructure on the apprenticeship aspect of the legislation. Can you explain to the committee your position on this aspect of the legislation, just provide a few more details there?

Mr. Clive Thurston: Yes. As I said—and you're right, we have had discussions. We welcome them. He was very open to our concerns. Part of the suggestion for the plan idea came from the minister's staff, and we fully endorse it. We have to find a way to deal with hiring people and apprentices and all of that, there's no question. And we want to do that, but we have to do it in a way that works.

The recommendation that was made to us by the minister's staff was, what about requiring that the bidder has to submit a proper plan, showing what apprentices are going to be used on the job, how many, and then track it to make sure it is happening. I can tell you that right now, there is no research. Nobody has taken any existing projects and tracked the use of apprentices. We don't have those numbers; it's never been done. That's another reason to stay away from setting quotas. You don't want to do that.

But mandate the winning bidder that you have to sit down with your trades and work out your apprenticeship plan: How many are going to be hired for this project; what's the duration? One thing I do strongly agree with, it needs to be staggered. You don't want all first-year apprentices; you want to make sure it's staggered, so that is a good point.

Then the winning contractor knows who his subtrades are, because, as you know, in each division we might get 10 different subtrades bidding us. We don't know which one we're actually going to end up in a contract with until the very end. We can sit down with our team; we can find out what they're governed by. If they're governed by union contracts, then the ratios apply. It could be an open-shop contractor, where it's a totally different thing, but we can find out, and we put that plan together; we submit it to IO or the government, whoever is in charge, to approve it. If it's approved, then it's

monitored, tracked, and then we finally have some research.

Ms. Sophie Kiwala: Thank you. I'm just going share my time with my colleague.

The Chair (Mr. Grant Crack): You've got 18 seconds. There will be no response.

Mr. Han Dong: For the record, I understand the ratio and the challenging practice and all that stuff, and you answered most of my questions with the previous answer.

Do you, in general, support the intent of the apprentice provision of this bill, which is to legislate to require their involvement?

Mr. Clive Thurston: Yes.

Mr. Han Dong: Okay, thank you.

The Chair (Mr. Grant Crack): Very quickly, do you want to just elaborate for 10 seconds?

Mr. Clive Thurston: Just in line with what I've said: as long as it's a workable plan that is in the best interests of everybody, and that it will work. Let's not implement something on to the general contractors that just isn't going to work, that even if you passed it we couldn't do it. Give us a tool that allows us to do what you want and we'll do it. We'll beat the drum for it, no problem.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Thurston. Thank you, Mr. Frame for coming and joining us this afternoon.

SOCIAL PURCHASING PROJECT

The Chair (Mr. Grant Crack): Next, from the Social Purchasing Project, we have Mr. Jon Harstone. He's project manager. We welcome you, sir. You have five minutes. My Vice-Chair will take the chair for a few minutes.

Mr. Jon Harstone: I'd like to commend the government for introducing Bill 6. This bill has the potential to transform how infrastructure is conceptualized in Ontario. Infrastructure should be more than just building highways, transit and hospitals. Infrastructure spending has the potential to transform communities.

The amendments I'm proposing—and I believe they may have been handed out; you'll probably see similar ones from some of the other groups working on this—if they're incorporated, it will permit infrastructure spending to underpin the province's poverty reduction strategy and provide real benefits to the unemployed and low-income Ontarians.

I work for the social housing project—sorry, Social Purchasing Project. The social housing project was back there. We help social enterprises get contracts with government and private corporations. Social enterprises are businesses whose primary purpose is to achieve a social, environmental or cultural goal. The businesses I work with are mainly, but not exclusively, owned by non-profit organizations. Their primary purpose is to provide job training and employment to people from historically disadvantaged groups, including street-involved youth, people living with mental illness, people with intellectual disabilities and so on. I help the social enterprises get

contracts so they can create meaningful employment for their disadvantaged employees.

Now, one area where we've had some real success is the Pan Am Games. The games are an enormous infrastructure program and, from the get-go, community benefits were central to the way they thought about the games. The games' legacy includes not just sports facilities, housing and transit, but also employment and training opportunities for historically disadvantaged groups. The games' procurement policy was structured to encourage diverse suppliers and social enterprises to bid on some of the small and medium-size contracts. I'll give two examples.

Kitigan distributes and sells arts and crafts by aboriginal artists. Kitigan won the contract to make moccasins with the Pan Am logo that would be sold at the games and, currently, more than 40 aboriginal craftsmen and women—most of whom are living on a reserve—are making moccasins, earning money, which directly addresses poverty reduction.

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Another successful social enterprise is the Phoenix Print Shop, which trains formerly homeless youth to become printers. Phoenix won a contract with the games—a contract that directly benefits street-involved youth by giving these youth skills that allow them, when they leave the program, to be gainfully employed.

The Pan Am Games had a procurement framework that made it easier for social enterprises and diverse employers to get contracts that directly addressed poverty reduction. These community benefits were achieved without incurring additional costs and without compromising quality. We need to build on the success of the Pan Am Games and integrate community benefits and a proactive procurement policy in infrastructure planning so that spending will directly benefit low-income Ontarians living in poverty. Community benefit agreements coupled with appropriate procurement policies can make this happen.

Along with colleagues from labour and the community, I'm asking the committee to consider amending the bill to add the words "community benefits" to the purpose, and then define community benefits in section 2 as follows:

"'Community benefits' means 'tangible social and economic opportunities and outcomes for communities, especially historically disadvantaged groups, including but not limited to jobs, training, and apprenticeships; procurement from local businesses and/or social enterprises; and other benefits as determined in consultation with the community.'"

I'd really like to emphasize the community consultation. To make the community benefits work, it has to be a community-driven process.

The result can be transformative. Infrastructure spending without any additional cost to the government can support employment and training opportunities for historically disadvantaged groups, which in turn will address poverty reduction.

Amending Bill 6 to include the community benefits is a win-win proposition. Thank you.

The Vice-Chair (Mr. Joe Dickson): Thank you. We will now go—I'm not going to try to pronounce your name—

Mr. Taras Natyshak: Let's do it, Chair. Come on.

The Vice-Chair (Mr. Joe Dickson): I got it right one time. I'll go to the third party to commence questioning.

Mr. Taras Natyshak: Thank you so much, Chair.

Mr. Han Dong: MPP Natyshak.

Mr. Taras Natyshak: Thanks to my colleagues.

Thanks very much for your presentation. Your suggestions seem so reasonable that I can't imagine they would ever be implemented.

Mr. Jon Harstone: Thank you.

Mr. Taras Natyshak: Yes, it seems too reasonable to try to look for a triple net benefit in a neighbourhood procurement.

I wonder if you've done any analysis on a procurement policy, provincially-driven, that had buying-local provisions or even, God forbid, some protectionist provisions built into it, and what the ramifications would be, given multinational trading agreements. Are they in conflict with each other?

Mr. Jon Harstone: The one thing that I have been told by the people who are working on international trade is that that's a red herring. That's not where the problems are. The EU has regulations up the wazoo and you can do this local purchasing, if you know how to phrase the tenders properly and if you know how to work the regulations. That's not a problem.

The international trade regulations are not going to be a problem around local sourcing, finding ways to assist social enterprises and diverse groups to get contracts.

Mr. Taras Natyshak: I like the concept. I think you're on to something here. You had referenced the Pan Am Games—

Mr. Jon Harstone: Yes.

Mr. Taras Natyshak: Was there that type of dialogue in the process?

Mr. Jon Harstone: Absolutely. If you went to take a look at the bidding formula—Pan Am Games went out of their way to encourage diverse suppliers, that is, women-owned businesses, aboriginal- and minority-owned businesses and social enterprises, to bid. They actually had a tendering process in which there were points awarded to make sure that there was going to be serious consideration given to those groups. So the Pan Am Games is seen as a real leader in innovative procurement techniques.

Mr. Taras Natyshak: Interesting. Well, I'll be interested to follow up and to see what the ultimate effects have been. Thank you very much. Thanks, Chair.

The Vice-Chair (Mr. Joe Dickson): Thank you, member Natyshak.

Mr. Taras Natyshak: Ah.

The Vice-Chair (Mr. Joe Dickson): I will now go to the government side. Member Peter.

Mr. Peter Z. Milczyn: Yes, it seems we need to have some training room.

Mr. Harstone, thank you for your presentation this afternoon. We had an earlier witness also speak about community benefits.

In broader terms, though, could you speak to the benefit of long-term infrastructure planning and what the impacts of that would be on the provision of services, jobs and employment in Ontario?

Mr. Jon Harstone: In terms of this long-term infrastructure planning—don't we wish we could make this happen?

When we think about infrastructure, if you just think about it as roads, not as how those roads knit the community together, then that won't make sense. We have to have infrastructure that says, "The roads create bridges between communities; the hospitals are a way of helping people improve their quality of life."

If you start thinking about your long-term infrastructure in terms of how it's going to impact the whole community and how it's going to improve it—not just clear economic: "Here, we're going to get some more apprenticeships"; that's important—how it's going to actually make everybody's life better, and how 50 years or 100 years from now it's going to make that difference, then I think that will work.

Part of what I'm seeing is that infrastructure can have an incredible impact on disadvantaged communities if it's structured correctly and it goes into those disadvantaged communities giving people opportunities to find jobs, rather than what I'm worried about with Metrolinx, where it will gentrify the community and we're going to find the poor forced out. We've got to find a way to make sure they can stay and get work. Proper long-term planning is something that will include the entire community and everybody in it for the benefit of all.

Mr. Peter Z. Milczyn: You referenced the approach that the Pan Am/Parapan Games has taken. Metrolinx also has adopted, on the Eglinton Crosstown project, some community benefits into some of the projects. Is there additional cost to implementing community benefit agreements to the overall project costs?

Mr. Jon Harstone: I don't believe there is. Now, I'm particularly speaking about getting procurement to work for social enterprises and small and medium business. The reason I can say that is that we've been spending a lot of time talking with the private sector about trying to get them to do it. Up until now basically there has been a small group that gets an ask to bid, and recently private business has been saying, "We'd like to see more diversity," and those diverse suppliers are now getting contracts because they're hungry, they're innovative, they're small and they want to make things work. The older guys who have always been getting the contracts have been sitting back on their laurels and they're now losing work. Why? Because small business is the generator and social enterprise is a particular kind of small business that works with people; it does a lot of training and works with people who are historically disadvantaged.

But I think that in our infrastructure projects, if you create a way to get more small businesses and gave them

a leg up—that may mean disaggregating some of the contracts—you're going to see a net cost benefit to us.

Mr. Peter Z. Milczyn: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. Appreciate that.

We'll move to the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thanks very much for coming in. I was reading your note on community benefits. It's a term I've heard a couple of times today. The last bit of the line on the definitions is "consultation with the local community." I think we have to be quite cautious of one aspect of having consultation, but another aspect is actually listening to that consultation.

I'll tell you that in my riding there is infrastructure going on right now and this government is going to shut down the 401 for farmers in my area. All their farm equipment is now going to be forced onto heavily trafficked highways, which is (1) unsafe, and (2) it cuts their route from their fields to the marketplace. And I'm pretty sure what we're growing in Elgin-Middlesex-London is actually bought, sold and consumed by the members of Toronto and GTA ridings who are ignoring the pleas of our farmers.

However, I liked your aspect on not just consultation but listening to the local people who are going to actually benefit, because right now they're axing our agricultural economic powerhouse by the fact that they're shutting down this 401 for our farmers.

Mr. Jon Harstone: Right, exactly, because this infrastructure cuts both ways. It's a benefit and it can also be detrimental to our communities if we do not implement it in a way that makes some sense.

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Of course, it's the local people who know how it's going to impact. Therefore, we've got to make sure that if we set up a community benefits agreement, part of what—when we were looking at this and talking about it, we said all infrastructure is going to be an absolute pain in the ass to do, so there's got to be some benefit to the community if we're going to do it. How else do you sell it? "Oh, this is very good for you. Yes, the 401 is going to now be three lanes all the way." Who cares? It doesn't help the farmers unless we are looking at, "You're going to lose money. This is going to have this impact and this impact." How do we, through a consultation process and through a community benefit agreement, which can be done that way, find a way to make that happen? That's why I think this consultation—and the community benefit agreement can be part of what we do with infrastructure planning—is really critical.

Mr. Jeff Yurek: Great; thank you.

The Chair (Mr. Grant Crack): Thank you very much, sir, for coming before the committee this afternoon. We appreciate it.

ONTARIO SEWER AND WATERMAIN CONSTRUCTION ASSOCIATION

The Chair (Mr. Grant Crack): Next, from the Ontario Sewer and Watermain Construction Association,

we have stakeholder relations manager, Mr. Patrick McManus. Welcome, sir.

Mr. Patrick McManus: Thank you.

Interjection.

The Chair (Mr. Grant Crack): Yes, he did a great job.

Mr. McManus, you have five minutes. Enjoy.

Mr. Patrick McManus: Thank you. I'm here representing the OSWCA. Across the province we presently represent north of 750 member companies, which include contractors, manufacturers, distributors, consulting engineers, all who build, supply, service and maintain the sewer and water main construction sector in the province. I appreciate having the opportunity to speak with you here today and to lend our support to Bill 6, albeit with a recommendation for a small adjustment to language in the bill.

We support the passage of Bill 6 because it proposes to address a number of central concerns that the broader construction industry has had for a number of years, the development and maintenance of a long-term role in the infrastructure plan being one; the standardizing of criteria to prioritize infrastructure investments being another.

We've long been advocating for progress on these issues because there is an inherent need for greater predictability and prioritization in how the government actually invests in its infrastructure. Because government is the primary owner and/or funding partner of core infrastructure in the province—roads, bridges, sewers and water mains—developing a long-term plan for where and when these investments are going to be made will help create a much greater degree of market stability in this sector of the construction industry.

Companies operating in this sphere will be better able to plan for staffing and resource needs by identifying regions well in advance where investments are going to be made. It's also going to help companies grow and compete for projects outside of their traditional operating areas.

Implementing a standardized set of criteria for prioritizing project investments is also of quite critical importance. It's going to ensure that existing asset management plans at the municipal level and provincial infrastructure plans and strategies are not only going to be accounted for but also utilized. It will also ensure that investments are targeted on infrastructure needs as opposed to infrastructure wants, which will make certain that investments are being made in critical areas of importance for community development and delivering core public services.

With all the positives that we do see around the bill, we believe that there is a small amendment that needs to be made—some previous groups have noted as well—to subsection 8(2), which seeks to prescribe a quota for the number of apprentices to be hired on public projects. Although the intent of the provision is positive, the wording of the clause is problematic because it will eliminate the staffing flexibility that's required to properly administrate a construction project in the different sectors of the industry.

We support the idea of promoting apprenticeships and expanding the pool of skilled labour through government procurement, but believe that getting into this type of specific detail in the legislation is not the appropriate place for this. We believe that it's rather more appropriately dealt with in the regulation-making process when the significant differences that exist between the various sectors of the construction industry can actually be fleshed out.

We hold this opinion because the heavy civil construction sector for the most part operates outside of this traditional scope of trade apprenticeships, say for shop mechanics or occasionally crane operators that are required on heavy civil sites. This means that we hire full-wage employees that are slowly developed from within the company, whereas in trades operating in the formal apprenticeship process, an individual is hired and typically makes what amounts to 60% to 80% of a journeyperson's wage, and then requires a formal process regulated by hours of experience before they can reach their full wage-earning potential. The nature of heavy civil construction doesn't allow for this process. We typically hire individuals to work as labourers, screed men, flag persons, lock tenders—a whole host of different jobs, where no formal process is in place requiring a specified number of hours of service before a person can make a full industry wage.

Each sector of construction has vastly different training requirements, vastly different skill sets required to perform the work, and each, as a result, holds different hiring practices. These differences must be appropriately understood and accounted for in this bill and in its accompanying regulations. Applying the language as it's presently drafted simply will not work.

To achieve the intended objectives of Bill 6, which we believe are to increase the pool of skilled labour in the province and get more young people working in construction, we firmly believe that this language must be much less rigid and move away from a quota-based approach. Allowing the promotion of apprenticeship opportunities through government procurement is important where it's applicable, but including language to this effect in the legislation does not consider the differences that exist in the various sectors.

I'd like to conclude by saying thank you for considering my viewpoint. We very much appreciate having the opportunity to speak here today.

The Chair (Mr. Grant Crack): Thank you very much, Mr. McManus.

We shall start with the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Yes, you're right; the Ontario General Contractors Association also brought up the issue around apprenticeship quotas. We've heard you on our side, but we've come to realize during other committee hearings that the government of the day has a bad habit of voting almost all amendments down these days.

I was wondering if you could touch specifically on the negative economic impact of having to deal with appren-

ticeship quotas. What would that mean to your association in numbers?

Mr. Patrick McManus: More specifically, to the members: Typically, the way a sewer and water main construction crew is made up, they work in seven-people crews. They have a foreman, three operators and three labourers. In order to insert an apprentice into that process, you would have to remove one of your full-time, full-wage employees. The way that it's set up, an individual starts at the most basic job and, as they gain experience, they are moved through the various jobs within a crew that they're able to do. It's based on the merit of their work.

Hiring an apprentice in this situation would mean that you're taking—first of all, at this point there are no apprentices for these types of jobs. But in an instance where an apprenticeship was required and an apprenticeship had to be created, it would mean taking somebody who is currently full-wage and paying them an apprenticeship wage.

Ms. Lisa M. Thompson: Thank you. I appreciate that.

The Chair (Mr. Grant Crack): We shall move to the third party. Mr. Natyshak.

Mr. Taras Natyshak: In the scenario that you just presented, there are no regulated, apprentice-able trades involved. Therefore, there are no ratios that are applicable.

Mr. Patrick McManus: Right.

Mr. Taras Natyshak: Is there any instance where the ratios—as a compulsory trade—would be applicable, and what are they?

Mr. Patrick McManus: From time to time, there will be mechanics in the shops—occasionally for crane operators when they're required. But that's it at this point. They simply don't exist.

Mr. Taras Natyshak: So my question is, why would the government then go through all this trouble to enact the College of Trades, to give the college the ability through regulation to manage ratios and training parameters and qualification parameters, just to subvert all of that work and legislate it through the provisions of Bill 6? Does it not sort of inoculate the rationale for the College of Trades as it is?

Mr. Patrick McManus: There is that system, that body in place that goes through the certification of trades. As it stands now, the trades, the workers in our industry, are not certified trades.

Mr. Taras Natyshak: So with the provision of the quota system, what the government is saying is that it's good enough for us to be able to dedicate quotas but not good enough, ultimately, for the private sector when they're not involved in public infrastructure projects.

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Mr. Patrick McManus: I think it just—

Mr. Taras Natyshak: You don't have to say it exactly—

Mr. Patrick McManus: No, I think it's just because the hiring practices are so different in the different sectors of construction. Those differences have to be

recognized. That's why I think putting this piece in the legislation doesn't make sense for all of the publicly owned or publicly funded infrastructure, because it doesn't account for a lot of the companies that operate in this sphere that can't hire apprentices because there are no apprentices for their actual work.

Mr. Taras Natyshak: Gotcha. Okay, thanks.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the government: Mr. Dong.

Mr. Han Dong: First of all, thank you for the presentation. I want to ask you your view on the government's commitment for the next 10 years to invest \$130 billion in infrastructure. Do you think that helps your industry?

Mr. Patrick McManus: It certainly does.

Mr. Han Dong: Okay.

Mr. Patrick McManus: It certainly does, specifically when it comes to predictability. That's something that construction—companies that operate on public infrastructure projects have not had that in the past. Having a long-term plan, understanding where investments are going to be made over the course of 10 years, knowing that there's going to be funding there—that is of critical importance.

Mr. Han Dong: You said “in the past.” That means that this improvement and the commitment of infrastructure investment is basically historic. It has never happened—

Mr. Patrick McManus: Typically, we operate on year-over-year budgets, or maybe three-years-in-advance budgets, but nothing of this size and scope.

Mr. Han Dong: Good. The second thing is, you mentioned the details of the apprentice provision of this bill. I just want to ask you—and you sound like you agree with the government's intention to promote apprenticeships through publicly funded infrastructure projects. Is that right?

Mr. Patrick McManus: Where it's applicable, I think that utilizing government procurement to promote apprenticeships is important. It's something that, just in terms of how rigid and quota-based it is set in the act, doesn't necessarily fit with all of the sectors in construction.

Mr. Han Dong: Because the minister numerous times in the House has mentioned that he's quite willing to work with the opposition to do amendments. What's your advice? How would you, in detail, think that this could be carried out?

Mr. Patrick McManus: I think that it's something that should be dealt with more in regulation. In the regulation, there's a greater opportunity to flesh out what the differences are between the different sectors of construction, and how the hiring practices are different and how the nature of the work is different.

I just think having it set in stone in legislation, that presumably can't be changed, is not the appropriate place for it. I think dealing with it in regulation allows for a much more fluid environment as the nature of the work changes.

Mr. Han Dong: But you will still need a legislative framework for the regulation to happen, right? What we are debating here, or discussing here, is the legislative framework. Do you have any recommendations to amend it or to change it?

Mr. Patrick McManus: My recommendation is just that the quota-based language, specifying a particular number of apprentices, needs to be removed, and it has to be left more flexible, because on publicly funded infrastructure projects that can't hire apprentices—how does that play out in the field, right?

Mr. Han Dong: Gotcha. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, sir, for coming before committee this afternoon. We appreciate it. Thanks to everyone.

CHRISTIAN LABOUR ASSOCIATION OF CANADA

The Chair (Mr. Grant Crack): We'll move to the Christian Labour Association of Ontario. I believe we have Mr. Ian DeWaard with us, who is the regional director. Welcome, sir. You have five minutes.

Mr. Ian DeWaard: Great. Thank you, Mr. Chairman and committee members, for the opportunity to speak to you. As you've noted, my name is Ian DeWaard, and I'm with Christian Labour Association, or CLAC.

CLAC is a labour union that was begun in 1952 and was founded on a unique values-based approach to worker advocacy and labour relations. Today, we're one of the largest independent unions in Canada, with more than 60,000 members across the country. In Ontario, we represent approximately 7,500 construction workers who do work on major public infrastructure projects throughout the province. We're here today to support the Infrastructure for Jobs and Prosperity Act, but also to request some modification.

It's no secret that we have an infrastructure deficit in the province which is impacting our province's prosperity. The requirement in this legislation that governments develop long-term infrastructure plans and allocate funds to properly prioritize projects is well-intentioned and important. In particular, CLAC supports the goal of using procurement policy to encourage apprenticeship registration and completion. We've been on record supporting this idea since the bill was first introduced. We would like to ask, however, that the mechanism to incentivize the use of apprentices be considered carefully, to ensure that it achieves the desired goal and that it does not create unintended consequences.

The approach currently taken in the legislation is to set a quota for the number of apprentices who must be engaged on a construction project. On the surface this seems to make sense, but in reality it is a very complicated notion and will not work in the construction sector. This is due to the fact that a construction work site is a very complex work environment. Those key differences, or key complexities, include the types of projects that we're considering. The types and quantity of trades-

people used on a road, for example, will vary greatly from the number and types engaged on a hospital, to use two examples. We also need to take notice of differences in labour market availability. The differences between Sarnia to Ottawa, from Toronto to the north, can be quite distinct.

We have to take into consideration the difference between trades as to what ratios of apprentices are permissible relative to the journeypersons employed. Those ratios will be different for different components of the work and from trade to trade.

We also have to keep in mind the two different ways that apprentices are indentured to employers. Primarily in Ontario, there are two models. On the one hand, there are local apprenticeship committees, by which an apprentice is a shared resource; not indentured to one particular employer, but in fact to a pooled group of employers. On the other hand are the types of employers that engage apprentices on individual contracts of apprenticeship. Those can have a significant effect on the availability and the manner in which apprentices are engaged and taught.

In our view, because of these wide and varied types of workplace organization, there will be no way to assign a particular quota that would be meaningful or universally appropriate. To attempt to do so would likely result in a number so low that it is meaningless, so high that it will cause arbitrary and unintended consequences, or so differentiated for each type of variable that it will be impossible to administer and enforce.

In summary, a quota system would be too costly, too complex and too burdensome to administer. Instead, we would encourage the committee to look to established models that are used in other jurisdictions or are in place at Infrastructure Ontario. These established but more flexible approaches will help the government to achieve its goal of bringing more apprentices into the trades and toward improving completion rates. But, unlike a quota system, these models are able to achieve this legislation's desired goal without creating a heavy administrative burden for government or for the sector.

As stated, CLAC fully supports using procurement policy to achieve gains for apprenticeship in Ontario. We simply ask this committee to revise the apprenticeship section of the bill, section 8, and would suggest that the amendments support the goal of driving apprenticeship outcomes in a flexible, fair and administratively simple manner.

With that, I'm happy to answer any questions. Again, thank you for the opportunity to address you today.

The Chair (Mr. Grant Crack): Thank you very much, Mr. DeWaard.

We shall begin with the third party. Mr. Natyshak.

Mr. Taras Natyshak: Thanks very much for your presentation. We're hearing a reoccurring theme, of course, with the quota system as it relates to apprentices. You referenced how IO does it, and—somewhere else.

Mr. Ian DeWaard: There are other models in other jurisdictions. Manitoba is an example where they use a participatory approach worth further analysis. It requires

that contractors demonstrate their support and use of apprentices historically and for the projects that they're undertaking.

Mr. Taras Natyshak: What about Infrastructure Ontario?

Mr. Ian DeWaard: I understand Infrastructure Ontario's requirement to be project-based. On the basis of being awarded a project, they need to work out a plan that says, "We will engage apprentices in this way." That gives them the capacity to, first, work those details out with the list of contractors or subcontractors that will be on-site, and that could be quite a myriad, depending on the size of the project.

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Mr. Taras Natyshak: Ultimately, these decisions will be done by regulation anyhow, so I guess it's a pre-emptive position that you're taking in raising concerns about how this could play out?

Mr. Ian DeWaard: I wouldn't presume to write the language for the bill, but I think it's fair to say that the bill makes a clear statement about the government's intention to incentivize the use of apprentices as it invests tax dollars. That is a positive end. The details in terms of how that works out or at what level that's made clear, I will leave for people who are much smarter than I.

Mr. Taras Natyshak: Have you ever seen this type of a quota system enacted?

Mr. Ian DeWaard: I have not, no.

Mr. Taras Natyshak: Okay, great. Thanks.

The Chair (Mr. Grant Crack): We'll move to the government side. Ms. McMahon.

Ms. Eleanor McMahon: I guess I'm in the same place as my colleague in terms of asking you to elucidate or expand on your suggestions for encouraging apprentices to become engaged, yet at the same time disagree with your concerns about quotas and the feeling that that's an administrative burden. Do you see no happy medium at all? Isn't there a way for us to do this in order to encourage an apprenticeship plan for the future? We've heard today from a number of witnesses about the importance of encouraging our young people into the trades. My nephew is a welder, for example, so I guess I hear about this a little bit from his perspective, too. Any thoughts on that?

Mr. Ian DeWaard: Speaking from our own experience, CLAC has been very committed to creating opportunities and causing people to move into apprenticeship as a viable career. It's a great place to work. I think it's fantastic that the government is considering how to use tax dollars to encourage contractors and the owners of construction to pass on that responsibility, a civic responsibility. I think that the learned are passing on the skills to the learner. There are great tools available by which to do that. There are a number of levers to pull to continue in that effort.

I would urge that the quota system, as I said in my remarks, would have unintended consequences and would cause much complication as it was rolled out or administered.

Ms. Eleanor McMahon: Thank you.

The Chair (Mr. Grant Crack): Okay. From the official opposition, Ms. Thompson.

Ms. Lisa M. Thompson: Thank you for being here. Have you been consulted on Bill 6? This has been on the books for some time. Has your organization been consulted by this government?

Mr. Ian DeWaard: My colleagues and I have had a number of opportunities to comment on the bill, either this one or its predecessor, 141, I believe.

Ms. Lisa M. Thompson: Okay, very good. Obviously, the elephant in the room is the apprenticeship quota today. I picked up on a comment that has been shared this afternoon, that an unintended consequence may impact the labour market availability, if you will, in rural and northern Ontario and things like that. You don't have the same pool to draw from. Marry that with the fact that this government is looking to incent more apprenticeships; is there room here for people to take advantage of and play around with that incentive and misuse that intent?

Mr. Ian DeWaard: Well, there are bad things done by bad people all of the time, I guess. I'm not sure how to respond to that.

Ms. Lisa M. Thompson: We live with that every day.

Mr. Ian DeWaard: Yes. This bill, it seems to me, is about causing good behaviour from the people who are going to be participating in the building of these projects or in the operation of these projects and specifically ensuring that they achieve some duty or meet some end, in terms of preparing today's workforce for tomorrow and ensuring that we've got the qualified number of journeypeople we'll need in the future.

Ms. Lisa M. Thompson: Interesting. You identified the two areas that hit home for you in terms of your organization and what will not work, in your view, in the construction market. You specifically touched on roads versus hospitals. Do you think there's merit in amending this bill to reconsider how infrastructure towards roads is dealt with?

Mr. Ian DeWaard: I'm only here to speak in terms of the use of apprentices. On both a road and a hospital, there will be the transfer of knowledge from a certified journeyperson to an apprentice or a learner. To incentivize that behaviour is good. I think the bill needs to be sufficiently flexible to contend with the differences between a road or a bridge and a hospital where the number, the quotient and the type of tradespeople used is going to vary greatly.

Ms. Lisa M. Thompson: Okay. And as you said, you'd rather see that in regulations as opposed to—

Mr. Ian DeWaard: Again, I think it's valuable for the bill to make that point clear that the government is going to incentivize that behaviour. How that's achieved, I wouldn't dare to author. If that's simply regulation—how that gets worked out—I guess that would be fine.

Ms. Lisa M. Thompson: Okay, that's fine. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. Thank you, Mr. DeWaard for coming before committee this afternoon. We appreciate it.

ONTARIO NONPROFIT NETWORK

The Chair (Mr. Grant Crack): From the Ontario Nonprofit Network, we have Ms. Cathy Taylor with us this afternoon. Welcome, and if you'd be so kind as to just introduce—

Ms. Cathy Taylor: Yes. My name is Cathy Taylor. I'm the executive director of the Ontario Nonprofit Network. This is my colleague Liz Sutherland, our policy adviser on this file.

Good afternoon. Thank you for having us on this warm, humid afternoon. I am here to speak on behalf of Bill 6 and to put our support towards the introduction of Bill 6, the jobs and prosperity act.

Our organization is the provincial network for 55,000 non-profits and charities in Ontario. They employ over one million people in Ontario, including full-time and part-time staff, and contribute \$50 billion to Ontario's economy. Our mandate is to support a strong and resilient non-profit sector in Ontario.

I'm here today to add our voice to the network of the broad coalition of organizations, many of whom you've heard from today, seeking to have the importance of community benefits recognized in Bill 6, the legislation that will guide Ontario's infrastructure investments in the coming decade.

There are many compelling reasons to include community benefits in this statute. Infrastructure projects that include community benefits leverage public dollars that are already being spent to benefit Ontario communities, aligning the government's infrastructure with other policy goals, such as job opportunities, training for diverse populations, small business, social enterprise promotion, affordable housing and healthy communities.

Specifically, community benefit agreements, or CBAs, provide a mechanism to create locally driven benefits for specific local communities. For example, they can tackle youth unemployment or shortages in the labour force in key trades via training, apprenticeships and quality job opportunities. CBAs can also strengthen social and economic development in communities by supporting social enterprise activity. The Eglinton Crosstown, which you've heard about today already, has a community benefit framework, and is a good example of how to help marginalized communities, including youth and newcomers, being part of an infrastructure investment.

Adding a community benefits clause to Bill 6 would serve to cement the commitment that the Ontario government has already shown to spending infrastructure dollars in a way that benefits local communities. Premier Kathleen Wynne has noted that "the community benefits process signals a new era of collaboration ... bringing the goals of government, labour, not-for-profit and business closer together." The 2014 budget committed the Ontario government to enhancing procurement models "by

ensuring that, beginning with the Eglinton Crosstown, future infrastructure projects include plans for providing opportunities for apprentices and supporting the completion of apprenticeships, with focused programs for at-risk youth, local communities and veterans."

Last week, I was at a conference called the Precarity Penalty Symposium, on precarious work, where Premier Wynne noted that CBAs can "advance our core values.... With another decade of historical infrastructure investments ahead, we want to duplicate this model" as we work together. So including community benefits in the act would simply formalize a position that this government has already adopted in principle.

We recommend that community benefits be defined and included in the legislation as a principle and as a criterion for investment decision-making. Community benefits should be defined as tangible social and economic opportunities and outcomes for communities, especially historically disadvantaged groups, including but not limited to jobs, training and apprenticeships; procurement from local business and social enterprises; and other benefits as determined in consultation with the local community. In our written submission, we have included specific recommended wording for Bill 6 amendments.

Bill 6 also establishes principles and criteria which will require further definition in regulation. We urge the government to involve a broad range of stakeholder groups, including industry, workers, community non-profits and workforce development, in the development of these regulations. Finding meaningful and practical ways to implement this act will be critical, and the minister can benefit from the input of stakeholders and community groups who have expertise to offer in the areas ranging from job training to construction to community engagement. A hallmark of successful community benefit agreements is early and meaningful consultation, and the same applies, we believe, to the development of the regulations.

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In closing, we would like to reiterate that there is a broad coalition of non-profits, funders and labour organizations seeking to have community benefits included in Bill 6. Communities across Ontario—large and small, urban and rural—would stand to benefit from the inclusion of language that would ensure that our public dollars are invested in a way that supports community needs for training, apprenticeships, vibrant social enterprise, small businesses and other community amenities.

With Bill 6, the Ontario government has a historic opportunity to significantly advance many of the policy goals it has by enshrining community benefits in legislation. We certainly urge the standing committee to support this important amendment.

Thank you for the opportunity to comment.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that.

We'll start with the government side. Ms. McMahon.

Ms. Eleanor McMahon: Thank you so much for coming, and thank you for your work. Just prior to being

elected, I ran a not-for-profit organization that I started, so I know the sector very well. I also worked at United Way. So I feel like we're fast friends already.

Ms. Cathy Taylor: Comrades.

Ms. Eleanor McMahon: Yes, comrades-in-arms.

I have to confess to you that I didn't know much about community benefits. I feel very ignorant, but I have to be honest with you: It wasn't something that was part of my lexicon prior to this conversation, and I'm very interested in it. In terms of adding it to the legislation, can you expand a little bit more on that and if you'd like to see the language embedded within it? Is it something that's within the legislation, for you? Is it maybe part of the regulations? How can we shape that moving forward?

Ms. Cathy Taylor: I think there are a few areas specifically in the legislation—in the preamble and in a couple of other areas—where it makes sense to include the term “community benefits” as part of the criteria that decision-making would be done by. I think the devil is always in the details of the regulation, but I think if the intent, the principle, is there in Bill 6, in the legislation itself, it would be really helpful to lay the groundwork for what will come in the regulatory discussions. There are two or three spots—and that's in our submission—we actually propose specific wording in the amendments to Bill 6. Then that will be a message to the communities that we can then follow through and work with the infrastructure projects to ensure that the community voices are heard.

Ms. Eleanor McMahon: Do you know any other jurisdictions that have done this and have done it well? Is there some evidence as regards the impact that has resulted?

Ms. Cathy Taylor: Certainly, it has been tested in Toronto, through the Toronto Community Benefits Network. I think you heard from them earlier today, on the Eglinton Crosstown. There are a number of jurisdictions in the US that have done that work. There's a researcher here actually, in Toronto, who has been compiling the best practices in that area. So there are a number of jurisdictions that have done that. I'm not familiar with other ones in Canada.

Ms. Eleanor McMahon: This researcher in Toronto—is there anything published that we could share with the committee?

Ms. Cathy Taylor: We could probably get that information for you.

Ms. Eleanor McMahon: Perfect. Thank you.

The Chair (Mr. Grant Crack): We shall move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: We very much appreciate you coming in today.

When we talk about community benefits, again, I have to come back to people's ability to pay. There's a lot of research on the benefits of embracing the overall community, but has there ever been a cost analysis done in terms of what community benefits will add to a total project cost?

Ms. Cathy Taylor: I think the intent is that it doesn't actually add anything, because it's about the process of

how the infrastructure is tendered. So it doesn't actually add to the project itself; it's how the projects have actually been tendered. What we're asking for is that the community benefits be part of the decision-making process, rather than a financial cost upfront.

Ms. Lisa M. Thompson: And you trust the government to do that? I can't help myself, Chair. In 2009, community benefits and municipal autonomy were totally ripped away with the Green Energy Act, so I have a tough time believing this government will actually get it right this time. I had to get that off my chest.

The Chair (Mr. Grant Crack): I hope you feel better.

Interjections.

Ms. Lisa M. Thompson: I live with it every day; you guys don't. You have no idea how it's been—

Mr. Jeff Yurek: She didn't say you're corrupt; that's good.

Ms. Lisa M. Thompson: Okay, I'm good. Thank you very much.

The Chair (Mr. Grant Crack): MPP Yurek, I'll ask you to withdraw.

Mr. Jeff Yurek: Withdraw.

The Chair (Mr. Grant Crack): Thank you. We shall move to the third party. Mr. Natyshak.

Mr. Taras Natyshak: Thank you very much for your presentation. Can you elaborate or expand on the criteria for—

Interjections.

Mr. Taras Natyshak: I can't hear myself, Chair—prioritizing foundational infrastructure projects that “provide measurable community benefits”? How do we measure them? What are we measuring them against? What do we hold ourselves to if we don't achieve those measurable outcomes? I would expect that the community consultation process would then inform us of where we want to be. I mean, is this just a stick? Can we ultimately point back to the fact that we didn't do this, and we didn't achieve those measurable outcomes and try to fix it?

Ms. Cathy Taylor: It's a good question. I think if it's enshrined—our goal is to enshrine it in the legislation as a principle. I think, then, the details of what is a community benefit, what's the community's expectation and how the community is consulted become part of each project, and part of the details would be in the regulation. That decision-making would be part of each infrastructure project as it goes forward.

Mr. Taras Natyshak: I've been elected for three years—enough time to become incredibly cynical, unfortunately. I don't think the government is going to do this. It makes too much sense to do it. I think that they will tell you that infrastructure projects inherently provide community benefit: “Look at what happens when we build new roads and bike paths”—just that evidence that we know exists. I don't think they're going to want to hold themselves to any targets or benchmarks for fear of actually being held to them at some point.

Ms. Cathy Taylor: Well, we're certainly looking for that level of detail.

Mr. Taras Natyshak: I would love to see it. I would think that that would bring in the aspirational and quantitative benchmarks that we need to see.

The Chair (Mr. Grant Crack): Thank you very much, and thank you to the two of you for coming before committee this afternoon. We appreciate it.

SPRINGBOARD SERVICES

The Chair (Mr. Grant Crack): We have with us Springboard Services. I believe we have a Ms. Assan and a Mr. Terada with us this afternoon. Welcome. If you just want to introduce yourselves with your positions. You have five minutes. Thank you.

Mr. Randall Terada: Thank you. Members of the committee, colleagues and fellow travellers, thank you for the opportunity to speak today. My name is Randall Terada. I'm currently the program design and evaluations specialist at Springboard Services in downtown Toronto. I'm here with Mafaza Assan, the supervisor of our Employment Ontario office.

At Springboard Services, we work with youth involved in the justice system, with developmentally disabled youth and adults, and in employment services as an Employment Ontario agency. We're speaking in full support of Bill 6 and in full support of our previous speakers, perhaps with the slight nuance that, while we work with individuals to strive to reach their full potentials, and we are members of the Toronto Community Benefits Network, I'm here to support the inclusion of three words: community benefits agreement—possibly in section 3.5 of Bill 6, Infrastructure for Jobs and Prosperity Act.

Why? There are currently 83,000 young people in the GTHA between the ages of 19 and 29 who are not employed and not in education or any type of training. That acronym is NEET. NEET youth are far, far removed from formal apprenticeship training because apprenticeships are hard; apprenticeships are hard work. Apprenticeships are also a material opportunity for this group to work in careers and occupations that pay a living wage and much more than that.

Now, for many of us in the social services, when we come across apprenticeships in our work, it's somewhat of an abstraction. It speaks generally of economic opportunity. The language of apprenticeships in our work gets stylized into some economic equation about skills shortages, regional economic development, apprenticeship agreements and the like. But with a community benefits agreement—why that works for us is that it works at the ground level. Apprenticeships now are connected with real economic opportunity for real people and communities, and concrete materials factors, such as race, gender and class get weighed in and thrown into the mix.

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The “agreement” in community benefits agreement points to the work that goes into making sure the right

parties are at the table and that all of our efforts are pushing in the same direction. A community benefits agreement means the term “workforce development” moves from an abstract concept in the policy papers to the smell of rubber hitting the road.

A community benefits agreement is the foot soldier or under-labourer to the more generalized working agreements. A community benefits agreement gets people in the same room creating collaborative projects and dealing with those granularities that don't get hashed out at the more mid-level talk about frameworks.

My fear is that if left at too generalized a level, talk about “community benefits” may get swept up into status quo procedures, and the necessary innovation around the important concrete community engagement process pieces that include supportive education and essential skills training may get overlooked and, along with that, a core group of potential apprentices.

I'd like to conclude with two additional points about community benefits agreements.

Point 1: Community benefits agreements help to underscore the importance of the specific supports required of historically marginalized and equity-seeking groups. These supports range from the development of community engagement strategies that build up the resilience of individuals to help manage the personal ambivalence and uncertainty that comes with stepping up and into a life-changing opportunity and, like any huge personal endeavour, requires a healthy amount of social capital in the form of social networks and other community supports to ensure that they navigate the journey with increasing confidence and successful outcomes. For an abundance of reasons, for historically marginalized groups, their timelines are such that they are at a distinct disadvantage when it comes to the race for open apprenticeship opportunities.

Point 2: Community benefits agreements highlight the need for an effective tracking system as a crucial piece of the community engagement process. This is because those individuals who wish to throw their hat in the ring and investigate the first step in the skilled trades journey need to be sufficiently supported, mentored and encouraged throughout the process. When historically marginalized and equity-seeking groups write their names on the initial community engagement attendance sheets, this should trigger a logical sequence of follow-ups and intake procedures that get them eventually to the right place, at the right time and in the right frame of mind.

The Chair (Mr. Grant Crack): Thank you very much. I gave you an extra 30 seconds. I'm sorry.

Mr. Natyshak, from the third party, to start.

Mr. Taras Natyshak: Thank you very much, Chair. Thank you very much for your presentation. Thanks for the work that you do on behalf of our communities.

This is a novel idea, but I guess it's not that novel. We've seen community benefit agreements in place in other jurisdictions. We've seen them as stand-alone, within private contracts or even municipal contracts.

I think it's a great idea, but I think I've already expressed some of my concerns: that it will ultimately

allow us, as the general public, to have consultation with the government when it comes to having these difficult or important discussions—sometimes governments are averse to doing that. We're finding that out on major, very important projects that involve the public. I'll point to the privatization of Hydro One as one of them—very, very little consultation happening, with massive ramifications for the public.

So I don't know. I think you're making a wonderful case for community benefit agreements. I wonder if you share those same hesitations or concerns that I do.

Mr. Randall Terada: The landscape of employment services—and I can speak to the landscape of Employment Ontario services in the GTA. Coupled with the fact that empirically, we're members of the Toronto Community Benefits Network, our experience with this network has been that, around the table, the size of this table, we get a number of really important actors on the scene, actors that heretofore have not been sufficiently—a lot of them, speaking of a lot in the trades, the unions—sensitized to this cohort of unemployed youth who have been structurally barred from the economy due to the nature of the knowledge economy, as such: those with perhaps less than high school, with perhaps some anxiety, with perhaps some other multiple barriers. Then we get around a table, and the key groups, spokespeople from Employment Ontario offices who have dealt with these clients—job counsellors, job developers, people from other social services—can talk and engage in a really productive conversation with other actors who are closer to apprenticeship agreements and are closer to workforce development policy analysis.

What we've seen is that we walk away from these tables and people are somewhat more enlightened, but also, constructively, we engage with the community. We go out in the community. There's construction engagement in light of the Eglinton Crosstown line, so we have a concrete objective to bring to the community when we engage them and say, "Here's a possibility of a career. Here's a possibility that you may want to pursue. If you sign our attendance forms, then we can engage in a process with you, engage with unions, engage with skilled trades spokespeople, engage with other social services such as maybe health counselling, and engage with Employment Ontario offices." It's that dynamic that we think works.

The Chair (Mr. Grant Crack): Thank you very much. I appreciate it. We'll move to the government side: Mr. Dong.

Mr. Han Dong: Thank you, Mr. Chair, and thank you for the presentation. I want to thank you, first of all, for your support of the bill; I heard you mention that at the very beginning of your presentation. And thank you for the good work you do in your community.

I agree with you that the community should benefit from these projects, and I think that, with the government legislating a long-term infrastructure plan, it's going to help that and it's going to solidify the government's commitment in building up the communities.

Could you speak to how a community can prosper or benefit from modern infrastructure? Can you think of any examples in the past that you can use to tell us how these investments would benefit the communities locally?

Mr. Randall Terada: Do you want to just say some personal examples?

Ms. Mafaza Assan: Yes. I can paint a picture as to the types of clientele that come to our door and how they could benefit from something like this. Over the past year we've had 462 youth under the age of 30 that came through our doors and expressed interest in apprenticeships, as well as trades. Of these youth who came through our doors, 69% of them ended up in customer service positions and sales positions, 10% ended up in foodservices and only 2% actually ended up in apprenticeships, the main reason being the demographic that they are. They are at-risk youth, youth who are in conflict with the law, youth who have special needs and mental health needs. However, they just need that extra push and assistance and opportunity to allow their demographic into something like this.

Although we have information sessions and we have professionals from the sector who come in and speak to them, immediately they're facing multiple barriers. They come to the information session. They're told to go online and apply for a position. When they go to apply online they're told to go to another office to get a password to do their online application. So it's just multiple barriers that we see them go through, and they struggle, just trying to overcome that.

We see that, from the number that walk through our door, if only 2% are actually ending up in it because of the barriers that they face, we want to help remove these barriers, and hopefully a CBA would put something in place where we're removing barriers, allowing these youths to actually get these opportunities and see that their interests are something that can lead them to a viable option one day.

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Mr. Han Dong: Okay. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that.

Over to the official opposition: Mr. Yurek.

Mr. Jeff Yurek: My question to you is probably not so much on the CBAs, but just your thoughts—you were here this afternoon listening to the other groups talk about apprenticeships. Are you more for or against? What are your thoughts on having a quota for apprenticeship, where you have to have X number of apprenticeships on the job? Or are you more for a flexible system? I'm just asking because you seem to be—well, I can't say if you're impartial; I don't know you well enough. But you're not part of the system per se, as in the construction industry. So where do you sit with that?

Ms. Mafaza Assan: A quota would be preferable. That way, they have targets to meet from their end and needs to fill.

Mr. Jeff Yurek: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate the two of you coming before committee this afternoon. Have a great afternoon.

SHEET METAL WORKERS'
AND ROOFERS' LOCAL UNION 30
WOMEN FOR CHANGE

The Chair (Mr. Grant Crack): Are the representatives from the sheet metal workers' and roofers' union here? Yes. Okay, good.

I'd like to welcome Ms. Dirie, the executive director for Women for Change. Is Mr. Peterson with us?

Ms. Nasteeha Dirie: He couldn't be here today, but he has a message that he sent to you, and I would like to read it to you.

The Chair (Mr. Grant Crack): Okay. Thank you for joining us. The floor is yours. You have five minutes.

Ms. Nasteeha Dirie: Thank you.

"The Sheet Metal Workers' and Roofers' Local Union 30 recognize and support our collective responsibility to include community benefits agreements into a construction project while new infrastructure and facilities serve their purposes. The true total value derived from any project should include the social aspect. Creating hope and opportunity for youth, aboriginals, new Canadians and women will improve our communities and is the right thing to do.

"It is with pleasure that we have invited Ms. Nasteeha Dirie from Women for Change to share her community perspective for us.

"Thanks,

"Jay Peterson"

I have a message of my own that I would like to read to you.

My name is Nasteeha Dirie. I have been working as a community support worker for 10 years in the Mount Dennis-Weston area. I am here today to talk about the inequality and challenges faced by many of our Somali youth in accessing employment and training programs and services in Canada.

After much struggle to obtain stable employment in Ontario, many of our youth decided to shift to Alberta for better opportunities. This shift also caused a lot of roadblocks for the youth who made the migration to the west. Yes, they did manage to find employment, but it was not in permanent positions. There were layoffs, and they were away from the nest of their parents. Many of the unemployed youth opted for criminal transactions to support themselves. This, however, caused deaths, imprisonments and mourning communities.

Back in November 2014, the Toronto Community Benefits Network held community engagement meetings in the Mount Dennis-Weston area. Over a hundred young men attended and had the opportunity to meet with different unions and employment agencies. Because of the Toronto Community Benefits Network connection, now we have four young men employed with the build-

ing trade unions, doing their apprenticeships. More are in the process of getting into the trades, and we expect some of these to find work building the Eglinton Crosstown line.

One of the young men who found employment through the Toronto Community Benefits Network's resident engagement had called me from Alberta before the meeting was held in Mount Dennis-Weston. He asked if I would be able to find him a job. I told him about Toronto Community Benefits Network's vision and asked him to attend the meeting so he could get the chance of meeting union representatives. He was able to attend the meeting, and he was also able to find employment.

I strongly hope that the provincial government recognizes the value of community benefit agreements. They can take the lead to reduce poverty, violence and crime in our communities through the jobs pipeline they create by giving access to apprentice, pre-apprenticeship and training programs.

By including community benefit agreements in Bill 6, you will make it possible for newcomer communities to have equitable access to jobs created by the infrastructure program.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that.

We shall start with the government. Mr. Milczyn.

Mr. Peter Z. Milczyn: Thank you very much for your presentation and your patience. I saw you were sitting there for most of the afternoon.

You made a very interesting comment about how young people, particularly in the Somali community, followed jobs to the west, but that really wasn't sustainable, and now many of them are coming home. Could you speak to what it would mean to that community and other communities to have a long-term infrastructure plan like we have—10 years, \$130 billion—and incorporate apprenticeship opportunities and community benefit agreements into that? What would that mean in the longer term?

Ms. Nasteeha Dirie: In my normal job, I serve 9 to 5 in the community. One of the issues that they raise every single day is how there is no employment. Usually we serve mothers, and they complain about how their young boys or their husbands can't find employment. In giving the opportunity, like the community benefit agreements, to families like that, you change their lives.

I have a message that I would love to say to you about one of the young men who attended the Toronto Community Benefits Network resident engagement meeting, who found employment from there. He sent me a message a few months later, saying that—I would love to read it to you, word for word, if you don't mind.

"I wanted to update you on the union job that I got, and how I want to say thank you. I completed my training and I have been working five days. Alhamdulillah—which is "thank God."

"Call me when you get a chance. Thank you. May Allah bless your family"—God bless your family.

That tells you what the community benefits network did. This is the proof.

Mr. Peter Z. Milczyn: I just wanted to comment that, hopefully, if we had a matching commitment from the federal government for this level of infrastructure spending, coupled with these kinds of initiatives—and if our friends from the third party actually supported the common-sense, reasonable things that we've put in our budget—then we could be creating a lot more jobs. But we should all be working together and not being partisan, I suppose.

Ms. Nasteeha Dirie: Yes. I would love to see that happen.

Mr. Peter Z. Milczyn: Thank you. Support the budget.

The Chair (Mr. Grant Crack): Thank you very much. Your time is up.

We'll move over to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: I really appreciate you coming today and sharing your experience and your perspectives. I don't have any questions for you right now. I just share in your hope that if this comes to fruition, especially around the community benefits, that it's equitably considered throughout the GTHA, as well as rural and northern Ontario.

The Chair (Mr. Grant Crack): Mr. Natyshak?

Mr. Taras Natyshak: Thank you very much for your presentation. Thanks for the work that you do on behalf of your community and the association. Please give our regards to Mr. Peterson as well.

The letter you wrote was very heartening. I've received those types of letters as well. I previously worked for the labourers' union, LIUNA, and I ran the training centre and the pre-apprentice program as well. We made a point to prioritize those who didn't necessarily have the immediate skill to work in construction but had a massive amount of desire. What it sounds like is that the individual you received that letter from has just an incredible amount of passion and drive to have gainful employment. I'm also encouraged to hear that it's unionized employment, which offers a whole other layer and level of protection and job security.

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Two questions: Would you put an emphasis on access to jobs that are unionized within the community benefit plan? Also, would you prioritize access for women to enter into the trades, and what is your experience with that demographic looking to enter into various aspects of the trades?

Ms. Nasteeha Dirie: I would love to see women in the trades. We have three young girls who are doing pre-employment, getting training, who have the ambition to enter into the trades.

Mr. Taras Natyshak: Wonderful.

Ms. Nasteeha Dirie: They all have different kinds of ideas of what they want to do in the trades.

Yes, you will see women from my community who would love to join the trades but not as much as you will

see the men. We have a lot of young men, especially when they went to Alberta, who experienced the concept of working in the union environment, having that benefit. They know how important it is because they weren't working in union companies. They felt like they'd been used: give them jobs when there were lots of jobs there, and then lay them off—and then keep the ones who were in the union. They know the meaning of what it means to them to work in the union environment. That's why, when we had the residents' engagement meeting in Weston, over 100 young men showed up.

Mr. Taras Natyshak: Wow. That's amazing.

Ms. Nasteeha Dirie: Yes.

Mr. Taras Natyshak: Thank you so much for the work that you do and continue to do.

Ms. Nasteeha Dirie: Thank you.

The Chair (Mr. Grant Crack): Thanks again for coming before our committee this afternoon. We really appreciate it.

Ms. Nasteeha Dirie: Thank you.

UNITED WAY TORONTO

The Chair (Mr. Grant Crack): From the United Way Toronto we have Pedro Barata. He's the vice-president of communications and public affairs. Welcome, sir.

Mr. Pedro Barata: Thank you very much for this opportunity. I'm your second-last speaker, so there's light at the end of the tunnel.

The Chair (Mr. Grant Crack): There is.

Interjection.

Mr. Pedro Barata: There's an architect, yes.

I'll be speaking to slides, so feel free to follow along, and I will be directing on the flips. Thanks again for this opportunity.

Slide 2 is my first slide. I'm here today on behalf of United Way Toronto to urge you to enshrine community benefits in Bill 6. Linking infrastructure projects with community benefits signals a new era of collaboration, bringing the goals of government, labour, not-for-profit and business closer together. Doing this would ensure that at the same time we build infrastructure in Ontario, we can also grow youth economic opportunities. We can build a strong workforce. We can drive poverty reduction, enable economic development and contribute to healthy communities.

Community benefits extend social and economic opportunities to disadvantaged communities through access to jobs, training and apprenticeships, procurement for local businesses and/or social enterprises, and other benefits as determined in consultation with a local community.

On slide 3: Premier Kathleen Wynne voiced the government's support for this approach just last week, on Friday, during the launch of the precarious employment report of United Way, citing the community benefits agreement between Metrolinx and not-for-profit partners along the Eglinton Crosstown, and in the Premier's own

words—she said, “With another decade of historical infrastructure investments ahead, we want to duplicate this model as part of our work together.”

Today, I'd like to spend just a couple of minutes describing some of this work that is happening on the Eglinton Crosstown, and I would invite you to turn to slide 5, which shows that poverty in Toronto, just like in many other communities, is increasingly tied to geography, and that has led to responses from United Way and other partners, including the province of Ontario, the city of Toronto and many others to take on a place-based approach.

In the next slide you see how that has played out over the past decade in Toronto. Over the past decade, we focused investment in those neighbourhoods that needed it most. We invested in resident leadership and we've built new social infrastructure, including community hubs.

We've had great success in terms of expanding our footprint, and as we've gone back to speak to residents about what needs to happen next, we've heard, “This is great, the community gardens. We have eight new community hubs. We now have new capacity to have voice and work together, but we are looking for economic opportunities. We're looking for good jobs for our community.”

On slide 7, a historic opportunity emerges, which is the Eglinton Crosstown. This is a major project, with many jobs being anticipated over a multi-year time frame.

In the next slide, slide 8, we see that the Eglinton Crosstown, in the top left-hand corner, happens to cut right through five priority neighbourhoods. These are neighbourhoods where at least 40% of residents live below the poverty line. If you look over to the top right-hand corner, you see unemployment rates in those very same five neighbourhoods. They're quite a level above the provincial and city average. Below, you see the other side of this challenge, which is that this project is unfolding at the same time as demand in the skilled trades is growing.

Slide 9: In an ideal world, all of these dots would be connected. People would look for jobs, they would get those jobs, our economy would keep growing and we would build the infrastructure that we need. But as we know, a deliberate, strategic approach is required to break down barriers to opportunities for youth at risk, for internationally trained professionals and for residents with labour force challenges.

Slide 10 shows the flourishing of a cross-sectoral collaboration happening on the Eglinton Crosstown, with Metrolinx and the anticipated project company all committed to this approach, the community being quite excited about the prospects for careers, and the building trades understanding the pressure of growing demands and opening their doors to this kind of an opportunity. Government has embraced the promise both at the provincial and municipal levels, and various players are now working in new ways to achieve better results.

Slide 11 shows the work that we at United Way are doing in partnership with the Ministry of Training, Colleges and Universities, Infrastructure Ontario, the Toronto Community Benefits Network and many other partners, including foundations, to make sure that young people who live in neighbourhoods like Weston-Mount Dennis can be engaged, recruited, assessed, get the right intervention and training, and end up placed and tracked six months down the road so that we know this is actually a sustainable approach. This is one of the first times where all of the key players from all of those parts of the pipeline are finally working together in common cause.

We believe that our approach is working. It's a great proof point about the promise of this project, and it's helping to establish conditions for a strong workforce development pipeline that can fill the need and deliver projects on time, on budget and safely. We believe that this very same approach can be expanded to other parts of Ontario, and to facilitate that, we have two recommendations that are on slide 13, and I will read them quickly into the record:

(1) “Community benefits” should be defined and included in the legislation as a principle and as a criterion for investment decision-making; and

(2) Community partners and other stakeholders should be engaged in the development of regulations under the act.

Thank you.

The Chair (Mr. Grant Crack): Thank you very much, sir.

We shall start with the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thank you for coming in today.

I've done a bit with the United Way in my area. It's suffering right now. We've lost quite a bit of the manufacturing base. Ford and the CAW used to give almost half the money we raised in our community. Unfortunately, they shut down the factory and moved away due to the economy.

My question to you with CBAs and putting it in the legislation is, do you have facts—or a research base—that it's actually sustainable in rural and northern Ontario? I'm hesitant. It doesn't matter; we can amend whatever we want, and they will only amend what they want to amend. To legislate something that might not be sustainable and effective only means that we're going to have to come back to this place and fix the legislation. So I'd like to hear more about how it has worked in rural Ontario—not just northern, but southwestern Ontario in particular.

Mr. Pedro Barata: Much of the evidence, as I'm sure you've heard today, has been in the urban environment, specifically with transportation builds. But we've also seen how in the Far North, through resource extraction, there have been some very important agreements that have been made, for example, between First Nations and other companies, to make sure that local communities can be trained and participate in some of the growing industries in the local economy.

These are all questions that I think we now have an opportunity to ask in the context of the changing economy and changing labour force, and how it is that we can look at people who in the past may have been employed in manufacturing but these days will have to look for new pathways to employment. This provides us with a venue to plan in a more integrated fashion and to do it in a way which is not just one sector thinking about what their needs might be, but instead is involved in a conversation with colleges, with the trades, with the community and with local residents, as well as local and provincial governments.

1720

The reason why we are great champions of this approach is because it breaks down silos around planning for what economic needs are going to be in the local community, what the workforce that's available is, and how it is that we can begin to better integrate those.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to Mr. Natyshak.

Mr. Taras Natyshak: Again, we've been hearing this reoccurring call for an enhancement on the government's infrastructure initiatives and a tangible benefit, a quantifiable benefit through the implementation of community benefit agreements. I think it's a wonderful idea, which is probably why the government will vote against it.

I can't attack the concept. It's something that makes perfect sense, something that gives us triple net benefit, something that involves our community stakeholders and things that I think the government is averse to.

But I wish you luck. I think the chorus that we've heard today should have at least some impact, but we'll have to see what the government does. I appreciate your efforts.

Mr. Pedro Barata: Terrific. Thank you very much. As we say at United Way, if things are not keeping you up at night, then you're probably not taking the risks that you need to really make things happen. This is the kind of project that's doing that for us, but we quite believe in it.

The Chair (Mr. Grant Crack): Thank you. We shall move to the government. Ms. McMahon.

Ms. Eleanor McMahon: Nice to see you. United Way is in my DNA, of course. I was the vice-president in Ottawa for a number of years, worked closely with Toronto—the largest United Way in the country, I think.

Mr. Pedro Barata: In North America.

Ms. Eleanor McMahon: In North America.

Your priority neighbourhoods research has been groundbreaking in terms of shaping solutions. I just want to give you a shout-out for that once again. It's a valuable tool for government making these kinds of decisions. Perhaps it was my work at United Way that leaves me glass-half-full when it comes to our ability to work together to make a difference, and you're demonstrating that.

I was pleased, but not surprised, to see the Premier's comments in support of the kinds of benefits that can be achieved through CBAs. Given the work that you've

done on Eglinton Crosstown, the work that you're doing through the workplace development pipeline with TCU and IO, can you just give me an example of how we might leverage the Crosstown project into other areas and other projects, to your point that that would really leverage the benefits into disadvantaged populations?

Mr. Pedro Barata: I will give you one example. Marc Arsenault is here from ironworkers and has been a very close partner of ours on this project. Marc was telling me in a recent tour of the ironworkers centre that they had received a new cohort of about 20 young people, ready to become ironworkers. Marc discovered about halfway through the training that about half of them were scared of heights. You cannot be an ironworker if you're scared of heights.

I think that this very simple example speaks to how it is that different systems are not working together. There should be a very simple diagnostic that asks you simple questions like, "How do you do when you're on top of a building?" that prevents (1) wasting Marc's time, (2) dashing expectations for the community, and (3) not making for the most effective pipelines to opportunity.

What we are doing with our project is actually getting all of the players who need to be part of the solution around the table and really challenging ourselves to work differently. This comes at the same time that the Ministry of Training, Colleges and Universities is looking at reforming the system of workforce development and training and really looking at how it is that we can better systematize some of these connections.

We have a great opportunity through this petri dish of the Eglinton Crosstown to actually learn big policy ideas and big policy lessons that can apply to how we develop systems that are much more effective and can actually deliver hope for people.

Ms. Eleanor McMahon: Fabulous. Do I have time, Chair, a quick one?

The Chair (Mr. Grant Crack): Thirty seconds.

Ms. Eleanor McMahon: Just a quick question for you: In terms of this broader conversation in Ontario, given where the world is going and, obviously, the legislation we're talking about today, this issue, are there other United Ways in Ontario that are working with you collaboratively? Are you sharing—we used to call it R and D: rip off and duplicate. Are you sharing that best practice amongst United Ways?

Mr. Pedro Barata: We are now all seeing that one of the great opportunities in Ontario is going to be a decade of infrastructure investments. For example in Peel, there is the promise of a new transportation line. We are working closely with United Way of Peel—and the mayor is very supportive there as well—in terms of applying this very same approach to how that line is going to be built.

This just makes sense. It's about connecting the dots and making sure that everybody wins in the end. I think it can become a growing movement. Enshrining it in legislation will ensure that it will become part of the conversation moving forward.

Ms. Eleanor McMahon: Awesome. Thank you.

The Chair (Mr. Grant Crack): Thank you, Mr. Barata, for coming before committee this afternoon. We appreciate it.

ROYAL ARCHITECTURAL INSTITUTE OF CANADA

The Chair (Mr. Grant Crack): Next we have, from the Royal Architectural Institute of Canada, Mr. Leslie Klein, who is the principal of Quadrangle Architects. Is that correct, sir?

Mr. Leslie Klein: That is correct, sir.

The Chair (Mr. Grant Crack): Welcome. You have five minutes, sir.

Mr. Leslie Klein: Chair and members of the committee, I am appearing before you as a national director of the Royal Architectural Institute of Canada. I represent the Ontario southwest region, which includes almost one third of all architects in Canada.

The RAIC is recognized nationally as the leading voice for excellence in the built environment, championing sustainable growth of our community, economy and culture, and demonstrating how smart design can enhance quality of life, while addressing important issues of society. Our mission is to promote excellence in the built environment and advocate for responsible architecture.

It is in this capacity that the RAIC, along with our colleagues from the Ontario Association of Architects, wished to appear before you to lend the RAIC's support for Bill 6, which calls for significant government spending on infrastructure projects throughout the province. In this context, the bill contains provisions requiring the involvement of architects and designers in the design of certain infrastructure assets. Since 60% of all infrastructure projects are buildings, the RAIC believes that the requirement to involve architects and the provision that design quality should be an integral part of the evaluation process of proposals for infrastructure projects will lead to better facilities and improvements that go far beyond aesthetics.

The concept of design excellence is often understood in a very narrow sense; namely, a project's physical appearance. But design excellence involves more than just the look of the buildings or structures. Design excellence also includes issues such as:

- the innovative use of materials and systems to enhance human activity;

- the operations, efficiency and functionality of the facilities;

- how the buildings fit into and enhance the context in which they are sited and how they add to the communities in which they are located;

- the enabling of full accessibility for all citizens; and

- sustainability, which includes reducing our dependence on fossil fuels, the wise use of resources such as water, enabling the use of public transit and improvements in indoor air quality.

Furthermore, it is the position of the RAIC that in evaluating the success of a project, it is not enough to

look at the short-term capital costs to construct it, but rather at the long-term life cycle costs which will determine the ultimate value delivered to the taxpayers of Ontario. The long-term operating costs of a building far outweigh the initial costs, and architects are uniquely capable of advocating for the use of durable materials, efficient systems and low-maintenance strategies, all of which bring long-lasting value to the process of revitalizing the province's infrastructure.

In addition, thinking about infrastructure in this holistic manner engenders economic gains in very broad ways, beyond mere bricks and mortar. For example, high-quality urban design fosters employment and economic growth, and encouraging the use of innovative materials in public projects can stimulate the innovation and global competitiveness of Ontario's private sector firms engaged in the design and manufacture of construction materials.

This bill serves to steer the province to a positive outcome that offers the greatest benefit to Ontarians, because it ensures the creation, delivery and sustenance of built assets that are functionally suitable, economically viable, safe, healthy and inspiring.

Since you are the stewards responsible for Ontario taxpayers' dollars, assets and resources, we urge you to support this bill and allow the skills of Ontario's architects, working in the best interests of the public, to create visionary, functional, accessible, sustainable and valuable infrastructure facilities which will serve its citizens well and cost-effectively. This bill represents a strategic investment in a legacy the province can create to enhance the quality of life of all communities in Ontario for ourselves and for future generations.

The Chair (Mr. Grant Crack): Thank you very much, sir. We appreciate that.

We shall start with the government. Mr. Milczyn.

Mr. Peter Z. Milczyn: It's nice to see you again, Mr. Klein. It has been a while.

1730

Mr. Leslie Klein: It has.

Mr. Peter Z. Milczyn: It was in a different context.

Mr. Leslie Klein: Very different.

Mr. Peter Z. Milczyn: You spoke so eloquently that there's really not much to add. The RAIC had a campaign going a few years ago, *Architecture Matters*. It wasn't about esthetics. It wasn't about pretty buildings. It was precisely about many of the things you spoke about: innovation in design, innovation in materials, innovation in the operation of buildings and innovation in the way buildings are designed using software now that integrates the life cycle costs and the operating costs, not just the design elements.

With all of that being brought into the mix by architects and other design professionals, does that cost more money, or does that save money?

Mr. Leslie Klein: No. I think one of the great misconceptions is that good design costs more. Good design takes time, and good design requires skills, but good design does not have to cost more, both in the short term and certainly in the long term. If we think about what we

are building now as having a lifespan of 50 years, we think about it very differently than if it's intended to last for one, two or five years.

Architects are skilled at not only managing complex processes but in thinking in that 50-year time frame, recognizing that the buildings we build today will be part of our legacy for the future.

Mr. Peter Z. Milczyn: There has been much said about the lack of engineers in the bill as it is right now. Is there any disagreement between the architectural community and the engineering community about the role that each profession, separately and collaboratively, should play in infrastructure?

Mr. Leslie Klein: On the contrary, I think that we are very much aligned. The Building Code Act specifies very clearly the roles of architects and engineers. Architects and engineers have, in fact, always collaborated positively to the benefit of both the clients and the ultimate users of buildings and structures throughout the province.

Mr. Peter Z. Milczyn: Thank you very much.

The Chair (Mr. Grant Crack): We'll move to the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thanks very much for coming in today. Just a question: With regard to previous infrastructure projects throughout the province of Ontario, architects have always been involved, have they not?

Mr. Leslie Klein: They have.

Mr. Jeff Yurek: So adding them into the bill to go forward, is there a fear that architects are going to be cut out of the process? What's the—

Mr. Leslie Klein: Not so much a fear, sir, but very much a desire to emphasize their essential nature in the process. It has been viewed at various times that initial capital costs are the most important thing in terms of determining the ultimate decision-making for which project will go ahead or which proponent will be chosen.

Our purpose in appearing before you is to say that first of all, there are far more important elements that are also included in your responsibility as government to ensure that infrastructure projects are built to provide value for Ontario taxpayers, rather than merely the lowest cost. We believe that architects have played that role and will continue to play that role. We wish to emphasize not only their role but also the importance of including design excellence as part of the important evaluation criteria.

Mr. Jeff Yurek: And that won't happen unless it's enshrined?

Mr. Leslie Klein: Well, we believe that enshrining it in the bill ensures that the government's intentions and the intentions of the taxpayers of Ontario are well respected.

Mr. Jeff Yurek: Do you see any place on the government side, the bureaucracy side, of infrastructure projects that maybe needs to be cleaned up to possibly ensure excellence at the end of the day or cost savings? If we

can make savings in other places, not necessarily—always picking the lowest cost denominator is not always the best thing, but we may not have to if the government has their act together in deciding how to tender and bid for a project.

Mr. Leslie Klein: I believe that the process of tendering, receiving tenders and evaluating tenders is an ongoing and evolving process. We believe that whatever process is ultimately selected, these larger important issues should not be lost.

Mr. Jeff Yurek: Thank you.

The Chair (Mr. Grant Crack): Mr. Natyshak.

Mr. Taras Natyshak: Thank you for your presentation. I simply want to congratulate you on your efforts and those of architects in the province of Ontario to have your profession recognized and valued within the context of infrastructure planning and spending and, ultimately, launching and delivering infrastructure.

I want to know if you can give us some examples of where performance and the involvement of architects in infrastructure projects—either in the design process or the construction phase—was explicitly ignored and where, ultimately, the value of that project was diminished without using the resources that architects bring.

Mr. Leslie Klein: I can't give you any specific examples. I can only say that, in the process of determining, some decisions are made differently than others. We would like to see a design-quality-based evaluation process be the norm and be implemented throughout the province.

Mr. Taras Natyshak: Thank you very much for being here today.

Mr. Leslie Klein: Thank you.

The Chair (Mr. Grant Crack): Thank you very much, again, Mr. Klein, for sharing your views with us this afternoon.

To all members of the committee, I want to thank you for your work this afternoon. Thanks to all who presented.

I'd like to remind all members of the committee that the deadline for filing amendments is tomorrow, Tuesday the 26th, at noon. As well, I look forward—

Interjection.

The Chair (Mr. Grant Crack): —which is tomorrow, noon, according to the order from the House. I'll ask the Clerk to verify that, but I'm sure we're good.

I really look forward to seeing everyone on June 1, from 2 o'clock to 6 p.m., to begin clause-by-clause consideration.

As per the order of the House, just to confirm, the deadline for filing amendments to the bill with the Clerk of the Committee shall be 12 noon on Tuesday, May 26, 2015.

This meeting is adjourned.

The committee adjourned at 1737.

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Official Report of Debates (Hansard)

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Journal des débats (Hansard)

Mercredi 27 mai 2015

Standing Committee on General Government

Committee business

Comité permanent des affaires gouvernementales

Travaux du comité



Chair: Grant Crack
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 27 May 2015

Mercredi 27 mai 2015

The committee met at 1600 in committee room 2.

COMMITTEE BUSINESS

The Chair (Mr. Grant Crack): I'd like to call the meeting to order and I'd like to welcome members of the committee.

I had a request this morning from Mr. Yurek to call a meeting, followed by Mr. Colle. Mr. Colle has indicated that he has a motion to put forward.

Mr. Mike Colle: Yes, can I read a motion into the record in regard to the work of this committee? Do you want a copy?

Mr. Jeff Yurek: I'd love one.

The Clerk of the Committee (Ms. Sylwia Przedziecki): A copy?

Mr. Mike Colle: Yes, please.

The Chair (Mr. Grant Crack): Okay. Thank you very much. Mr. Colle has asked to put forward a motion, so I would ask Mr. Colle to read that motion into the record, and then perhaps after we could take a short recess as the Clerk provides copies to all members.

Mr. Mike Colle: Sure.

The Chair (Mr. Grant Crack): So, Mr. Colle, the floor is yours.

Mr. Mike Colle: I move that the Clerk, in consultation with the committee Chair, be authorized to arrange the following with regard to Bill 30, the Highway Incident Management Act, 2014:

—The committee shall meet on Wednesday, June 3, 2015, for the purpose of public hearings;

—Notice of public hearings on the Ontario parliamentary channel, the Legislative Assembly's website, and Canada NewsWire; and

—That the deadline for requests to appear be 12 noon on Monday, June 1, 2015;

—That, following the deadline, the Clerk of the Committee provide the members of the subcommittee with a list of requests to appear;

—That the members of the subcommittee prioritize and return the list by 4 p.m. on Monday, June 1, 2015;

—That the Clerk of the Committee schedule witnesses from these prioritized lists;

—Each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members;

—The deadline for written submissions is 6 p.m. on the final day of public hearings; and

—That the research officer provide a summary of the presentations by 5 p.m. on Friday of the same week following public hearings; and

The Chair (Mr. Grant Crack): We'll take a short recess as the Clerk provides members with copies of the motion. In the future, if I could ask anyone putting forward motions at this committee to provide enough copies for all members—

Mr. Mike Colle: Sorry. I should have done that. I am remiss in not knowing that, Mr. Chairman.

The Chair (Mr. Grant Crack): It's not a problem.

The committee recessed from 1603 to 1608.

The Chair (Mr. Grant Crack): Back to order. Mr. Colle has moved the motion. Is there any discussion on the motion? Mr. Yurek?

Mr. Jeff Yurek: Can I have a 20-minute recess while we discuss this, please?

The Chair (Mr. Grant Crack): I haven't called for a vote, so is it the consensus of the committee that we would have a 20-minute recess?

Ms. Lisa M. Thompson: No games.

Mr. Mike Colle: Sure. Have a look at it. Find out what your member's bill is about.

Interjections.

The Chair (Mr. Grant Crack): There's further discussion. There has been a request for a 20-minute recess.

Mrs. Lisa Gretzky: I'd rather move forward.

The Chair (Mr. Grant Crack): Ms. Gretzky is saying she would prefer to move forward.

Mr. Jeff Yurek: Well, we're going to have one, one way or the other. It's just whether we have it now or we have it before we vote.

The Chair (Mr. Grant Crack): So are you forfeiting your—if I call for the vote, you will be entitled to request another 20-minute recess after.

Mr. Jeff Yurek: Well, we'll have the discussion first, then we'll have a 20-minute recess.

The Chair (Mr. Grant Crack): That would be appropriate. Is there any further discussion? Mr. Yurek.

Mr. Jeff Yurek: I thought we would be going to a recess. I think the NDP might have something to say to this, I'm sure, for wanting to go forward. I think it's great that this committee got together to move on in its work. I thought that for the past month we weren't doing the job that we should have been doing, and I'm glad that you've picked Bill 30, Highway Incident Management Act, to bring forward to this committee. I think it's very timely

and needed, and I look forward to having the public meetings. Thank you very much to the government members for bringing this forward. I know you had great discussions.

Maybe Lisa would like to add a few things.

The Chair (Mr. Grant Crack): Ms. Thompson.

Ms. Lisa M. Thompson: Thank you very much. I just want to thank the government for understanding, because this is a colleague's bill, Bill 30. It's called An Act to require the establishment of an advisory committee to make recommendations to the Minister of Transportation and the Minister of Community Safety and Correctional Services for the improvement of highway incident management. She's a very hard-working colleague, and I look forward to reviewing this further in committee.

We just want to make sure that everything is in the best-prepared state, if you will. I think it's good that we take the time to talk about this, to make sure that we put our best foot forward, out of respect for our colleague from Thornhill.

The Chair (Mr. Grant Crack): Mr. Colle.

Mr. Mike Colle: As you know, this bill came about as many members over the last while have expressed their concern that once there is an accident, especially on some of the major highways, the whole highway could be closed for up to six, eight, 10, 12 hours. Therefore, everybody is sort of wondering, what is the procedure? Is there a protocol that the OPP deal with, one that the local EMS deal with, the fire service? There has been a great deal of frustration by the motoring public at times, when they're just wondering why the highway had to be closed for so long—when it wasn't a major accident, yet there was this incredible delay. The trucking association is another one that has raised this over the last while.

Anyway, I'm not talking on behalf of the MPP who presented this private bill. But I know it's like an old burr in the saddle, you might say: this type of incident management that occurs, I'm sure, in all our ridings—especially on the major ones where a delay could cause incredible hardship for everybody trying to get home or trying to get to work or trying to deliver goods and services. So I think that it's a good discussion for us to have.

The Chair (Mr. Grant Crack): Further discussion? Mr. Yurek.

Mr. Jeff Yurek: I'd just like to move an amendment, please.

The Chair (Mr. Grant Crack): Mr. Yurek is proposing an amendment—if you would be so kind as to read the amendment in.

Mr. Jeff Yurek: Chair, I move that in subpoint 3 that “12 noon” be struck out and replaced by “1 p.m.” Therefore, it would read: “That the deadline for requests to appear be 1 p.m. on Monday, June 1, 2015.”

The Chair (Mr. Grant Crack): Further discussion on the amendment?

Mr. Mike Colle: It sounds very reasonable.

The Chair (Mr. Grant Crack): So can I call a vote for the amendment?

Mr. Jeff Yurek: I'd like a 20-minute recess before we vote on the amendment, please.

The Chair (Mr. Grant Crack): There has been a request for a 20-minute recess before the amendment. That is in order. So there is a 20-minute recess commencing immediately.

The committee recessed from 1613 to 1633.

The Chair (Mr. Grant Crack): Back to order. Previously, there was an amendment put on the floor by Mr. Yurek to change bullet point 3 from “12 noon” to “1 p.m.” on June 1, for a request to appear before the committee. I shall call the vote on that amendment.

Those in favour of the amendment? Those opposed to the amendment? The amendment is defeated, which makes us move to the original motion.

Mr. Jeff Yurek: Chair?

The Chair (Mr. Grant Crack): Mr. Yurek.

Mr. Jeff Yurek: Chair, I have one more amendment to add to this bill, if you would please give me the opportunity.

The Chair (Mr. Grant Crack): We would thoroughly enjoy it if you could read that into the record, sir.

Mr. Jeff Yurek: I move that the following amendment be added at the end of the current motion:

—That the committee shall meet following public hearings at its next scheduled meeting day for the purpose of clause-by-clause; and

—The deadline for filing amendments with the Clerk of the Committee be 12 noon, two sessional days before clause-by-clause.

The Chair (Mr. Grant Crack): Thank you for that. Would you be so kind as to provide that to the Clerk so we can provide copies to the members of the committee?

Mr. Jeff Yurek: I would love to. I am a pharmacist and can read hieroglyphics; I hope the Clerk can too.

The Chair (Mr. Grant Crack): Thank you.

Interjections.

The Chair (Mr. Grant Crack): Would it be the wish of the committee that we take a five-minute recess so the Clerk can prepare copies of the amendment that has been proposed?

Mr. Mike Colle: Can we just go ahead by just reading it?

The Chair (Mr. Grant Crack): If it's the committee's wish that we try to have a discussion on it so that everyone's clear on what the amendment is—

Interjections.

The Chair (Mr. Grant Crack): If it's not required, then I will ask—

Mr. Mike Colle: I think we'll take five minutes, yes, just to be safe. We don't want a trick word in there.

The Chair (Mr. Grant Crack): There has been a request for a five-minute recess. Then I shall grant the five-minute recess.

The committee recessed from 1635 to 1645.

The Chair (Mr. Grant Crack): Okay. Back to order.

We have an amendment that was moved by Mr. Yurek.

Mr. Jeff Yurek: Chair, I would like to rescind my amendment and add a new amendment, if that's quite possible.

The Chair (Mr. Grant Crack): That is possible.

Mr. Jeff Yurek: Is that all right?

The Chair (Mr. Grant Crack): Absolutely. I just want to make it clear: The amendment that Mr. Yurek had put forward prior to the recess has now been rescinded.

Mr. Yurek, you wish to put forward another amendment. The floor is yours, sir.

Mr. Jeff Yurek: Thank you, Chair. I move that the following amendment be added to the end of the current motion:

—That the committee shall meet following public hearings at its next scheduled meeting day for the purpose of clause-by-clause; and

—The deadline for filing amendments with the Clerk of the Committee be 12 noon on September 8, 2015.

The Chair (Mr. Grant Crack): Okay. Is there any further discussion? I see that there's no discussion, so I shall call for the vote on the amendment as put forward by Mr. Yurek.

Those in favour of the amendment? Those opposed? The motion and amendment are carried, which takes us back to the original motion, and—Mr. Colle?

Mr. Mike Colle: Point of clarification here. There's a dangling word at the end of my last section there. It says "the same week following public hearings; and". Replace the semi-colon with a period and take out the "and".

The Chair (Mr. Grant Crack): I could understand that, but if you would like to keep it it would be appropriate, now that Mr. Yurek has moved and this committee has passed that appropriate amendment. I think it would work.

Mr. Mike Colle: Oh, okay. So it does work. Okay. I withdraw my correction, then.

The Chair (Mr. Grant Crack): Thank you kindly. So we are going to deal with the original motion, as amended. Any further discussion on the motion, as amended? There being none, I shall call for the vote.

Those in favour of the motion, as amended? Any opposed? The motion, as amended, is carried.

There being no other further business of the committee—Ms. Gretzky.

Mrs. Lisa Gretzky: Chair, I'd like to put a motion forward.

The Chair (Mr. Grant Crack): Ms. Gretzky would like to put a motion forward. Feel free.

Mrs. Lisa Gretzky: Do you want copies of it for everyone beforehand?

The Chair (Mr. Grant Crack): That would be very appropriate, yes.

Thank you very much, Madam Clerk. I would ask Ms. Gretzky to read the motion into the record.

Mrs. Lisa Gretzky: Thank you, Chair. I move that the Clerk, in consultation with the committee Chair, be authorized to arrange the following:

—That the committee meet on Monday, September 14, 2015, and Wednesday, September 16, 2015, for public hearings and clause-by-clause on Bill 31, the Highway Incident Management Act, 2014; and—

The Chair (Mr. Grant Crack): Sorry. Can we just go back? It's "Bill 30," I believe your paper says. You said "31." Does it say "30" or "31"?

Mr. Jeff Yurek: Mine says "46."

The Chair (Mr. Grant Crack): No, on the first paragraph. You're still on the first paragraph.

I'm sorry to interrupt you, but I just want to make sure that we're clear. Mine says—

Mrs. Lisa Gretzky: It was supposed to be "30." My apologies.

The Chair (Mr. Grant Crack): Okay. So "on Bill 30"—

Mrs. Lisa Gretzky: —Highway Incident Management Act, 2014; and

—That the committee meet on the next two regularly scheduled meeting days for public hearings and clause-by-clause on Bill 46, Highway Traffic Amendment Act (Off Road Vehicles), 2014; and

—That the committee meet on the next two regularly scheduled meeting days following clause-by-clause on Bill 46 for public hearings and clause-by-clause on a bill selected by the government and provided to the Clerk of the Committee; and

—That notice of public hearings on the Ontario Parliamentary channel, the Legislative Assembly's website, and Canada NewsWire; and

—That the deadlines for requests to appear be 12 noon on the Tuesday the week before public hearings; and

—That following the deadlines, the Clerk of the Committee provide the members of the subcommittee with a list of requests to appear; and

—That the members of the respective subcommittees prioritize and return the list by 4 p.m. on the Wednesday following the deadline; and

—That the Clerk of the Committee schedule witnesses from these prioritized lists; and

—That each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members; and

—That the deadline for written submissions is 6 p.m. on the final day of public hearings; and

—That the deadline for filing amendments with the Clerk of the Committee be noon one sessional day preceding the scheduled meeting for clause-by-clause.

I don't know if this is the appropriate time, but I'd like a recorded vote on that, please.

The Chair (Mr. Grant Crack): Okay. Thank you very much. Before that, is there any further discussion? Okay, Madam Clerk?

Interjection.

The Chair (Mr. Grant Crack): The Clerk would like to take a few minutes just to make sure that the motion is in order, based on the time frames. So with the committee's indulgence, five minutes?

Mr. Mike Colle: A five-minute recess.

The Chair (Mr. Grant Crack): Five minutes. We shall have a five-minute recess.

The committee recessed from 1652 to 1700.

The Chair (Mr. Grant Crack): Okay. Thank you very much, everyone, for your patience—and Mr. Colle.

In consultation with the Clerk—I just want to bring it to the committee's attention that this motion has been put on the table by Ms. Gretzky. It's requesting that the committee meet on September 14 and 16 for public hearings and clause-by-clause, respectively, on Bill 30. I want to advise the members of the committee that about 20 minutes ago, you passed a motion, amended, in order to have those public hearings on June 3. What that does is provide difficulties for the Clerk and the Clerks' office to know how to actually schedule this particular request, if this passes.

Also, the fact that it's asking for the next two regularly scheduled meetings, and the government putting forward bills—the notice of public hearings on the Ontario parliamentary channel, on the Legislative Assembly website,

and on Canada NewsWire—it's kind of ambiguous. We don't know which one the motion is saying that we're going to be advertising for.

So I just want to bring that to your attention before I would ask for any further debate on the motion. I could call it out of order, basically, for the ambiguity.

Mr. Mike Colle: Let's just call the vote on it. Let's just vote on it.

Interjections.

The Chair (Mr. Grant Crack): I think what I'm going to have to do is call it out of order at this particular time. I apologize, but it's too ambiguous and does not provide the direction that I think the committee needs to have. Okay? Thank you very much.

Any further discussion? Any further business?

Mr. Mike Colle: I move adjournment.

Ms. Lisa M. Thompson: I second that.

The Chair (Mr. Grant Crack): Thank you for that. This meeting is adjourned.

The committee adjourned at 1702.

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Vice-Chair / Vice-Président

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Journal des débats (Hansard)

Lundi 1^{er} juin 2015

Standing Committee on General Government

Infrastructure for Jobs
and Prosperity Act, 2015



Comité permanent des affaires gouvernementales

Loi de 2015 sur l'infrastructure
au service de l'emploi
et de la prospérité

Chair: Grant Crack
Clerk: Sylwia Przedziecki

Président : Grant Crack
Greffière : Sylwia Przedziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 1 June 2015

Lundi 1^{er} juin 2015*The committee met at 1401 in committee room 2.*INFRASTRUCTURE FOR JOBS
AND PROSPERITY ACT, 2015LOI DE 2015 SUR L'INFRASTRUCTURE
AU SERVICE DE L'EMPLOI
ET DE LA PROSPÉRITÉ

Consideration of the following bill:

Bill 6, An Act to enact the Infrastructure for Jobs and Prosperity Act, 2015 / Projet de loi 6, Loi édictant la Loi de 2015 sur l'infrastructure au service de l'emploi et de la prospérité.

The Chair (Mr. Grant Crack): I'd like to call the meeting of the Standing Committee on General Government to order. I'd like to welcome every member of the committee, the Clerk's office, legislative counsel, Hansard and ministry staff. We're here this afternoon for clause-by-clause consideration of Bill 6, An Act to enact the Infrastructure for Jobs and Prosperity Act, 2014.

Are there any questions or comments concerning the proposed act at this time, or any one particular section? Mr. Milczyn.

Mr. Peter Z. Milczyn: Thank you, Mr. Chair. I feel at home already in this committee. There are so many easily pronounceable eastern European surnames all around that it makes me really feel very much at home.

Seriously, though, just very briefly, I wanted to remark on Bill 6, the Infrastructure for Jobs and Prosperity Act. I'm very proud about the work that we're doing on infrastructure. This government is making unprecedented investments across Ontario: \$130 billion over the next decade in roads and bridges, public transit, hospitals, schools, post-secondary education and other key parts of the infrastructure our province needs.

This bill is going to help us to do that work more efficiently and more smartly. It's going to assist our government in laying out a framework where the broader public sector will be in a better position to prioritize the projects that need to move forward first. I hope that it will depoliticize some of the infrastructure decision-making processes that we have by having strong frameworks in place.

We know that investments in infrastructure generate massive economic benefits. In the short term, about \$1.14 on every dollar that we spend on infrastructure is returned as an increase to gross domestic product. But in

the longer term, that is tripled or even more, because of the ability that that infrastructure gives to people and businesses across this province to become more productive and more effective and help grow our economy.

I'm very happy that this bill, if passed, will assist this government in long-term planning. It will help create more opportunities for apprenticeships with a variety of trades throughout the province. It will increase the quality of the design of infrastructure throughout the province by adding more value to it.

We've heard from a number of stakeholders through this process. Many of the concerns they have raised, I believe government amendments will address. It speaks to the collaborative nature of the infrastructure process that we have right now in this government that we work with our partners in the broader public sector, and with all of our partners who help deliver infrastructure throughout the province.

I'm looking forward to the clause-by-clause consideration, Mr. Chair.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Milczyn.

Any further questions or comments before we start? Mr. Natyshak.

Mr. Taras Natyshak: If we're using this time to make prepared statements, I guess I will ad lib one in the sense that this bill, as aspirational as it is, is not necessarily required for the government to proceed with prudent procurement policy within the government.

There's nothing that prohibits the government from making a long-term plan or creating a long-term plan. They've staked a lot of ground on infrastructure spending. However, it has most recently come to light that, when identifying important measures of infrastructure spending and procurement policy—the Auditor General has identified over the last nine years \$8.2 billion that has been essentially wasted within their P3 model through Infrastructure Ontario, as well as the fact that in this fiscal year, the government has yet to apply for any matching funds through the New Building Canada Fund, which would partner through federal revenue on important infrastructure projects, similar to what has been done in other jurisdictions, like Alberta and Saskatchewan.

We are supportive of the fact that the government is putting some importance and some priority on infrastructure. However, when it comes to actual value for money and prudent fiscal management, we would obviously have some issues with the way that they have

gone about building our infrastructure and prioritizing our infrastructure. That being said, we look forward to discussing the amendments that have been proposed before the committee. I certainly appreciate the testimony that has come before us in this committee.

The Chair (Mr. Grant Crack): Further discussion? There being none, I would like to take this opportunity, prior to getting down to work with regard to the amendments in clause-by-clause: Today at 4 p.m., the amendments that have not yet been moved shall be deemed to have been moved, and I as Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. At that time—if we make it till 4 o'clock—I shall allow for one 20-minute waiting period, pursuant to standing order 129(a). What I have just mentioned is according to the order of the House concerning Bill 6.

Thank you very much, everyone. We shall move to section 1. There are no amendments.

Mr. Peter Z. Milczyn: A recorded vote on this section, please.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote on all sections and all amendments.

Shall section 1 carry?

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Yurek.

The Chair (Mr. Grant Crack): Section 1 is carried.

We shall move to section 2. There is PC amendment number 1. Mr. Yurek?

Mr. Jeff Yurek: I move that section 2 of the bill be amended by adding the following definition:

“‘acceptable recycled aggregates’ means aggregates, as defined in the Aggregate Resources Act, that are not newly produced and that are not materials obtained from the demolition of a building;”

The Chair (Mr. Grant Crack): Further discussion? Mr. Yurek.

Mr. Jeff Yurek: We brought this motion forward from MPP Jones's private member's bill, Bill 56, An Act to prohibit certain restrictions on the use of aggregates in performing public sector construction work. The definition that we put forward was not objected to by any of the parties during clause-by-clause of Bill 56. This would ensure that construction bids would not be rejected on the sole basis that projects use acceptable recycled materials.

I think the government should prove that they're good environmental stewards like they do say. They should have no problem accepting this definition going forward, and I look forward to their support of our motion.

The Chair (Mr. Grant Crack): Mr. Milczyn?

Mr. Peter Z. Milczyn: I certainly appreciate the sentiment of the motion. We certainly support the principle. We have some concern with the definition that is being proposed. The Ministry of Natural Resources is conducting a review right now of this issue, and they will be bringing a definition and regulations forward.

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So while this is something we support in principle, this definition is premature, and I believe there are government amendments later on that address the principle involved here.

The Chair (Mr. Grant Crack): Further discussion? Mr. Natyshak.

Mr. Taras Natyshak: Just for clarification: I wonder if Mr. Milczyn can clarify government amendments built into the amendments that we're about to see.

Mr. Peter Z. Milczyn: There are—let me take a look. *Interjections.*

Mr. Taras Natyshak: I hear “number 6” is what you're being told.

Mr. Peter Z. Milczyn: Yes, number 6. My apologies. It's not a government amendment. There is an opposition amendment—and we will actually be supporting that one—motion number 6.

The Chair (Mr. Grant Crack): Anything further, Mr. Natyshak?

Mr. Taras Natyshak: I just want to contrast both amendments, Chair.

The Chair (Mr. Grant Crack): Any further discussion?

Okay. There being none, I shall call for the vote.

Ayes

Natyshak, Yurek.

Nays

Dickson, Dong, Hoggarth, Kiwala, Milczyn.

The Chair (Mr. Grant Crack): PC motion number 1 is defeated.

We shall move to government motion number 2 in your package: Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that the definition of “infrastructure” in section 2 of the bill be amended by adding “social housing” after “hospitals” in the portion before clause (a).

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Mr. Milczyn.

Mr. Peter Z. Milczyn: Thank you, Mr. Chair. We heard witnesses at the committee the other week speak about the importance of including social housing in infrastructure. It's obviously, over many generations, something that was built up in partnership between the national government and the provinces. We do agree that it is important infrastructure, so we think it's important to actually define it as such within this act. It may also help us in securing some federal funding if the federal

government chooses to re-engage in the provision of social housing.

The Chair (Mr. Grant Crack): Any further discussion?

There being none, I shall call for the vote.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Yurek.

The Chair (Mr. Grant Crack): There being none opposed, government motion number 2 is carried.

We shall move to the section.

Shall section 2, as amended, carry?

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Yurek.

Nays

Natyshak.

The Chair (Mr. Grant Crack): Section 2, as amended, is carried.

We shall move to section 3. We have new paragraphs 2.1 and 2.2 under PC motion number 3: Mr. Yurek.

Mr. Jeff Yurek: I move that section 3 of the bill be amended by adding the following paragraphs:

“2.1 Infrastructure planning and investment should take into account the size of the provincial debt and the government’s ability to balance the provincial budget.

“2.2 Infrastructure planning and investment should recognize and incorporate principles of effective procurement, tendering and contract management.”

The Chair (Mr. Grant Crack): Further discussion? Any further discussion on PC motion number 3? Mr. Milczyn.

Mr. Peter Z. Milczyn: I suggest that we not support these amendments. The first one is essentially already contained in the legislation. The ability of the province and the broader public sector to pay for infrastructure needs to be taken into consideration.

The second point, though, “incorporate principles of effective procurement, tendering and contract management,” is very broad. It’s unclear as to any specific direction that that’s requiring the government to undertake. For that reason, I suggest that we not support it.

The Chair (Mr. Grant Crack): Further discussion? Mr. Yurek.

Mr. Jeff Yurek: Unfortunately, these two amendments need to be put forward because this government has a history of being unable to balance a budget, let alone take debt consideration in hand with their out-of-control spending. I think, unfortunately, they need a little hand-holding going forward. These two amendments will help the government on the way to ensuring that we have infrastructure planning and processing going forward, but

at the same time, we watch out for what our children and grandchildren will be paying for down the road.

The Chair (Mr. Grant Crack): Further discussion on PC motion 3? There being none, I shall call for the vote.

Ayes

Thompson, Yurek.

Nays

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

The Chair (Mr. Grant Crack): PC motion 3 is defeated.

Mr. Natyshak, point of order?

Mr. Taras Natyshak: Thank you very much, Chair, for the point of order. This is a first for me. I erred in my previous vote on section 2 of the act. I voted against the section. I was following along as we were proceeding on the third motion. I thought we had called for motions. I simply want to let the record show that I voted erroneously and I certainly would have supported section 2 of the act.

The Chair (Mr. Grant Crack): It is within a member’s right to correct their record, whether verbal and/or voting record, so we appreciate you making those particular comments.

We shall move to government motion 4, which is a new paragraph, 5.1. Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that section 3 of the bill be amended by adding the following paragraph:

“5.1 Infrastructure planning and investment should ensure that the health and safety of workers involved in the construction and maintenance of infrastructure assets is protected.”

The Chair (Mr. Grant Crack): Further discussion? Mr. Milczyn.

Mr. Peter Z. Milczyn: Mr. Speaker, this is a principle that’s well-enshrined throughout Ontario law, but I think it’s very important that we stress in this bill that, as we build infrastructure, we’ll do everything within our power to ensure that work sites across the province are safe and that our workers are safe. I think it’s an important principle to enshrine in infrastructure legislation.

The Chair (Mr. Grant Crack): I would just like to remind members that although I am quite flattered by the fact that on occasion I get called Speaker, there is only one Speaker of the House. I am the Chair. Thank you for that.

Mr. Peter Z. Milczyn: I apologize.

The Chair (Mr. Grant Crack): Mr. Natyshak?

Mr. Taras Natyshak: Did I call you Speaker?

Interjection.

Mr. Taras Natyshak: Okay, sorry.

The Chair (Mr. Grant Crack): It usually happens once a meeting.

Mr. Peter Z. Milczyn: I used to call him other things.

Mr. Taras Natyshak: I hope that's captured by Hansard.

Chair, we definitely, within the NDP caucus, support this amendment. Infrastructure and planning should recognize health and safety standards of workers. Unfortunately, the government's record in terms of prioritizing health and safety and workers' health and safety is quite poor.

According to the WSIB statistical report, on-the-job fatalities have an alarming increased rate, by almost 40%, over the last five years. Each year more than 80 workers die in traumatic workplace accidents; 300 more workers die an even slower death as a result of occupational disease; and over 200,000 are maimed or seriously injured on the job.

The Arthurs report, which was commissioned in 2010, has yet to see any of its key recommendations implemented, and the Dean report, which I had submitted to, or testified in front of, prior to being elected, was commissioned over five years ago and made key recommendations for vulnerable workers and has yet to see any of those key recommendations implemented.

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That being said, we hope that this is the impetus in which the government finally takes action on the part of workers in construction and infrastructure projects in the province of Ontario and, more broadly, workers around the province. So we certainly support this amendment.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Natyshak. Any further discussion? There being none, I shall call the vote on government motion number 4.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson, Yurek.

The Chair (Mr. Grant Crack): There being none opposed, I declare government motion number 4 carried.

I shall move to government motion number 5, which is a new paragraph, 8.1. Mr. Dickson.

Mr. Joe Dickson: Thank you, Mr. Chair.

The Chair (Mr. Grant Crack): You're welcome.

Mr. Joe Dickson: With a capital C.

I just have a question in reference to the vote on section 2. The different levels that I've been at, as long as you recognize the potential of an error on a vote, there is an opportunity to adjust the vote in the minutes.

Now, I understand you made a point, and I'm sure it will be shown in the minutes. I just want clarification. Would it not be possible to show that he voted in favour of section 2? The logic always was, and you and I as mayors and councillors and so on and so forth—immediately when he did it, he kind of looked and he realized that he was thinking it was a section and a motion, when in fact it was the section itself. If he could have stood on the table and done a dance, he would have done it right then and there, to rectify that simple verification that

that's the way he intended to vote. So I'm asking the question again: Is there no way of showing that as being revised?

The Chair (Mr. Grant Crack): Once a vote is taken, specifically with a recorded vote, it's impossible to change that particular vote. I believe Mr. Natyshak has adequately expressed his position in that in a point of order, which I recognized and accepted as a point of order. So I think that is the mechanism that we would utilize to continue to move forward, respecting the fact that, yes, on occasion we do make errors in committee, but, at this particular level, there is nothing to go back to change a recorded vote.

Mr. Joe Dickson: Final question, then, Mr. Chair: Is there an opportunity for a recorded vote later in the meeting where he could revisit that?

The Chair (Mr. Grant Crack): I would suspect that, had this not been an order of the House under time allocation with very specific ways to move the clause-by-clause forward, there could be an opportunity at the end to maybe reintroduce a section, but at this particular point we have to continue to move forward.

Mr. Joe Dickson: Okay, that's fine. And that applies to anyone?

The Chair (Mr. Grant Crack): Correct.

Mr. Joe Dickson: Good. Particularly, though, MPP Natyshak—did I get it right?

Mr. Taras Natyshak: Yes.

The Chair (Mr. Grant Crack): Mr. Natyshak.

Mr. Taras Natyshak: Chair, I just want to thank my colleague Mr. Dickson for his indulgence and recognizing that I did make a little mistake, and I'm sure I'll have no problem explaining it to the electorate, given the Hansard notes, that I did make a mistake. They appreciate when somebody makes a mistake and they immediately correct themselves. But I do appreciate, of course, your intervention and your experience in this House. Having seen many of these, I'm sure you've seen votes gone ways that folks didn't intend to vote—

Mr. Joe Dickson: No, I saw you, and, under a different level of government, you would have had the opportunity immediately to re-vote.

Mr. Taras Natyshak: Such is a learning experience that I will carry with me as a newer member, and I'll endeavour to never make the same mistake again.

Mr. Joe Dickson: Thank you for your latitude, Mr. Chair.

The Chair (Mr. Grant Crack): I'd like to thank Mr. Dickson for bringing that particular issue forward. I would like to finish section 3 here, and then I will perhaps help to clarify what has transpired with regard to section 2 once we're done section 3. Is that fair enough? Okay. So we'll continue.

Government motion number 5—I forget where we're at now. Did we pass that one, Madam Clerk?

Interjection.

The Chair (Mr. Grant Crack): It's a new paragraph, 8.1, government motion number 5. Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that section 3 of the bill be amended by adding the following paragraph:

“8.1 Infrastructure planning and investment should promote accessibility for persons with disabilities.”

Mr. Speaker, we're approaching the 10th anniversary of the Accessibility for Ontarians with Disabilities Act. It's important that everything we do enshrine the principle of universal access.

The Chair (Mr. Grant Crack): Any further discussion on government motion number 5? There being none, I shall call for the vote.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson, Yurek.

The Chair (Mr. Grant Crack): There are none opposed. Government motion number 5, adding new paragraph 8.1, is carried.

We shall move to PC motion number 6, new paragraph 9.1. Mr. Yurek.

Mr. Jeff Yurek: I move that section 3 of the bill be amended by adding the following paragraph:

“9.1 Infrastructure planning and investment should endeavour to make use of acceptable recycled aggregates.”

The Chair (Mr. Grant Crack): Further discussion?

Mr. Jeff Yurek: I just want to reiterate what I mentioned in our previous motion that was struck down: This motion is brought forth by MPP Jones, based on her previous private member's bill, Bill 56, An Act to prohibit certain restrictions on the use of aggregates in performing public sector construction work.

I think it's good for the environment, but it also helps create jobs in other industries as well. Hopefully, we'll get this motion passed.

The Chair (Mr. Grant Crack): We'll go to Mr. Milczyn and then Ms. Thompson. Mr. Milczyn.

Mr. Peter Z. Milczyn: The government will support this amendment. It is good, sustainable environmental practice to do this. It's a good amendment.

The Chair (Mr. Grant Crack): Ms. Thompson.

Ms. Lisa M. Thompson: I think that's great. MPP Jones will really appreciate your recognition of her private member's bill as well.

I was just going to point out that you had supported it in the previous session, so thank you for your consistency in that regard.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on PC motion number 6, adding a new paragraph, 9.1.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson, Yurek.

The Chair (Mr. Grant Crack): PC motion number 6 is carried.

We shall move to government motion number 7, adding new paragraph 9.1 of section 3. Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that section 3 of the bill be amended by adding the following paragraph:

“9.1 Infrastructure planning and investment should promote community benefits, being the supplementary social and economic benefits arising from an infrastructure project that are intended to improve the well-being of a community affected by the project, such as local job creation and training opportunities (including for apprentices, within the meaning of section 8), improvement of public space within the community, and any specific benefits identified by the community.”

The Chair (Mr. Grant Crack): Further discussion? Mr. Milczyn.

Mr. Peter Z. Milczyn: Mr. Chair, this is also something that we heard from witnesses during the committee hearing—that when making major investments in infrastructure in communities across the province, this gives rise to opportunities to create jobs for local residents, to create training and apprentice opportunities for youth and others in those communities.

Based on individual communities' needs, there might be the ability to leverage other community benefits, whether it's streetscape or urban design, or whatever the specific case in an individual circumstance might be.

It's just smart planning, when you're spending tens of millions, hundreds of millions, or billions of dollars on project, that you can extract additional benefits from that.

The Chair (Mr. Grant Crack): Further discussion? Mr. Natyshak.

Mr. Taras Natyshak: I come from Windsor and Essex county. Statistics Canada, last month, reported that unemployment in Windsor climbed to 11.5%, the highest unemployment rate in Canada despite there being one of the largest infrastructure programs happening in the history of the country, which is currently ongoing, the Herb Gray Parkway, which will eventually lead up to the international crossing that will apparently be named the Gordie Howe bridge, according to Stephen Harper and the Conservative government, who have naming rights exclusively to that international crossing. However, despite the fact that the project is, all told—I mean, the Herb Gray Parkway is \$1.8 billion. The new bridge will be in the order of the same magnitude, so it's a massive infrastructure project, yet we still have an unacceptably high unemployment rate.

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We heard testimony at this committee from community advocates and those who work within the promotion of community benefits calling on the government to have a specific plan that includes dialogue and a pipeline to the government with those community groups to ensure that community involvement and community benefits thresholds were met through infrastructure planning and through the initiation of infrastructure. This pays lip service to what we heard at committee here. It says the

words “community benefits,” which I had—if you go back in the Hansard—warned those who were at committee here that that’s all they would get, that they would say inherently infrastructure projects provide a community benefit. But I would suggest and argue that without a specific strategic plan, the government will undoubtedly miss its mark in having that triple-net benefit that we know infrastructure projects can provide.

That being said, we support, of course, the intent and the idea and the concept around community benefits. We know they exist, but without a specific plan to accentuate them, my concern is that the government will, once again, miss its mark in accelerating and magnifying the impact for communities.

The Chair (Mr. Grant Crack): Thank you, Mr. Natyshak.

Further discussion? Mr. Milczyn.

Mr. Peter Z. Milczyn: While I appreciate the member’s concern about ensuring that community benefit agreements actually are secured, the intent of this amendment is to put in place that as a principle, as a lens through which all infrastructure spending will be viewed.

In fact, this government, on the Eglinton Crosstown project, has undertaken—and I believe the agreements are already signed or just about to be signed—a number of community benefit agreements for that project. It’s an evolving body of practice. We will see more of this throughout the province. But it’s important to understand that it’s going to be done on a project-by-project basis. Each project might be unique, each community might be unique, and it can’t be a one-size-fits-all rule to apply this with.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call for the vote on government motion number 7.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

The Chair (Mr. Grant Crack): Government motion number 7 is carried.

Of course, we do have amendments to section 3. Is there any further discussion before I call the vote on the carrying of section 3, as amended? There being none, shall section 3, as amended, carry?

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

The Chair (Mr. Grant Crack): Section 3, as amended, is carried, which takes us back to section 2. I believe it would be appropriate, as Chair, to ask the committee for unanimous—

Interjection.

The Chair (Mr. Grant Crack): The member could ask the committee for unanimous consent in order to

reopen that particular section and request perhaps some discussion and/or a secondary vote on that particular section.

Mr. Natyshak.

Mr. Taras Natyshak: Well, thank you very much for your indulgence, Chair. I’m learning a lot here today at committee in clause-by-clause. I will indeed take your counsel and that of our distinguished Clerk, and I will ask for unanimous consent to reopen the vote and to retake the vote in order for me to correct my record in which I erroneously voted against section 2. I am most definitely in support of section 2. I’ll ask for the support of my colleagues at this point.

The Chair (Mr. Grant Crack): Mr. Natyshak has requested unanimous consent to reopen section 2. Does the committee provide that unanimous consent?

Interjections.

The Chair (Mr. Grant Crack): I don’t hear anything other than yeses, so I will take the opportunity to reopen section 2, which, of course, was amended.

Is there any further discussion? I believe Mr. Natyshak has already put his position forward. So I shall call for the vote on a reopened section 2, as amended.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson, Yurek.

The Chair (Mr. Grant Crack): Section 2, as amended, is carried again.

Mr. Natyshak.

Mr. Taras Natyshak: Thank you very much to my colleagues who have been so gracious as to allow me to correct my record. I guess all I can say is I owe you one. Thanks so much—appreciate it.

Interjections.

Mr. Taras Natyshak: Mark it down. It’s very nice for this collegiality to happen so late in the session, so I appreciate it.

The Chair (Mr. Grant Crack): Ms. Hoggarth.

Ms. Ann Hoggarth: Could we bundle sections 4 and 5?

The Chair (Mr. Grant Crack): Is it the wish of the committee to bundle sections 4 and 5? We are capable and able, with the consent of the committee, to bundle sections 4 and 5. For clarification purposes, there is a new section being proposed under 5.1, so that is not going to be included in this. Is it the consensus of the committee that we bundle 4 and 5?

Interjection.

The Chair (Mr. Grant Crack): I hear a no. We shall move to section 4. There are no amendments. Is there any discussion on section 4? There being none, shall section 4 carry?

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson, Yurek.

The Chair (Mr. Grant Crack): Section 4 is carried.

We shall move to section 5. Any further discussion on section 5? There being none, shall section 5 carry?

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson, Yurek.

The Chair (Mr. Grant Crack): Section 5 is carried.

We shall move to new section 5.1, which is government motion number 8. Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that the bill be amended by adding the following section:

“Infrastructure Asset Management Plans

“Infrastructure asset management plans

“5.1(1) Every broader public sector entity prescribed for the purposes of this section shall prepare the infrastructure asset management plans that are required by the regulations and that satisfy the prescribed requirements.

“Infrastructure asset management planning information

“(2) Every broader public sector entity prescribed for the purposes of this section shall prepare such additional infrastructure asset management planning information as may be prescribed by the regulations and that satisfies any prescribed requirements.

“Submission of plans, information to minister

“(3) If required by the minister, a broader public sector entity shall, in accordance with any requirements the minister may specify, provide to the minister or to any other minister of the crown the minister may specify, a copy of an infrastructure asset management plan it has prepared under subsection (1), or of information it has prepared under subsection (2).

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“Same, other minister

“(4) If required by a prescribed minister of the crown, a broader public sector entity shall, in accordance with any requirements that minister may specify, provide to that minister a copy of an infrastructure asset management plan it has prepared under subsection (1), or of information it has prepared under subsection (2).

“Public availability of plans, information

“(5) If required by the regulations, a broader public sector entity shall make an infrastructure asset management plan it has prepared under subsection (1), or information it has prepared under subsection (2), available to the public in the prescribed form or manner.

“Supplemental information to minister

“(6) If required by the minister, a broader public sector entity shall, in accordance with any requirements the minister may specify, provide to the minister or to any other minister of the crown the minister may specify, any supplemental information respecting an infrastructure asset management plan or information it has provided under subsection (3) that the minister specifies.

“Same, other minister

“(7) If a broader public sector entity provides information to a prescribed minister of the crown under subsection (4), the broader public sector entity shall, if required by that minister and in accordance with any requirements the minister may specify, provide to that minister any supplemental information respecting an infrastructure asset management plan or information it has provided under that subsection that the minister specifies.”

The Chair (Mr. Grant Crack): Well done. Mr. Milczyn: further discussion?

Mr. Peter Z. Milczyn: Mr. Chair, this is enabling authority to the minister to bring forward regulations that would require standardized asset management plans to be brought forward throughout the broader public sector. The government—the minister—has heard from stakeholders, through a variety of consultations, the importance of this for long-term infrastructure planning.

We’ve also heard, through conversations with AMO and ROMA/OGRA, about not coming forward with definitions or requirements within the legislation, but continuing that dialogue in consultation so that regulations could be brought forward that may address different sizes of municipalities or different types of organizations but, nonetheless, achieve the purpose of having standardized reporting for asset management plans.

The Chair (Mr. Grant Crack): Thank you, Mr. Milczyn.

Further discussion? Mr. Natyshak.

Mr. Taras Natyshak: A question to the members of the government: Subsection 5.1(5) says that infrastructure asset management plans may be made public but only if required by regulation, and will only be delivered in “the prescribed form or manner.”

Why is public disclosure not mandatory? Also, why is the language regarding the delivery of this information—when it is permitted by regulation—ambiguous? Our contention is that public accountability and transparency measures should be strengthened here.

Thirdly, will supplemental information be made available to the public to view? There are currently no absolute or conditional provisions requiring this.

The Chair (Mr. Grant Crack): Further discussion? Mr. Milczyn.

Mr. Peter Z. Milczyn: The regulations haven’t been drafted yet. There will be extensive further consultation with stakeholders, around the drafting of those regulations, as to the form and nature of asset management plans.

Certainly, I assume that municipalities—all their information will be readily public and accessible. There may be other types of broader public sector organizations that are under other legislation.

I think the intent is that the regulations would ensure that there would be transparency and accountability, but those regulations haven’t been drafted yet.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on new section 5.1, government motion 8.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson, Yurek.

The Chair (Mr. Grant Crack): Government motion number 8, adding new section 5.1, is carried.

We shall move to section 6, which is government motion number 9, which is adding new subsection 6(4.1). Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that section 6 of the bill be amended by adding the following subsection:

“Legislation Act, 2006 (Part III)

“(4.1) Part III (Regulations) of the Legislation Act, 2006 does not apply to criteria issued under this section.”

The Chair (Mr. Grant Crack): Any further discussion on government motion number 9? There being none, I shall call for the vote.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn.

Nays

Natyshak, Thompson, Yurek.

The Chair (Mr. Grant Crack): Government motion number 9, adding new subsection 6(4.1), is carried.

We shall move to section 6, as amended. Is there any further discussion on section 6, as amended, before I call for the vote?

There being none, shall section 6, as amended, carry?

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

The Chair (Mr. Grant Crack): I declare section 6, as amended, carried.

We shall move to section 7: PC motion number 10, an amendment to subsection 7(1), paragraph 2. Mr. Yurek?

Mr. Jeff Yurek: I move that paragraph 2 of subsection 7(1) of the bill be struck out and the following substituted:

“2. A professional engineer as defined in section 1 of the Professional Engineers Act.

“3. A person, other than an architect or a professional engineer, with demonstrable expertise in and experience with design in relation to infrastructure assets.”

The Chair (Mr. Grant Crack): Further discussion? Mr. Yurek.

Mr. Jeff Yurek: This basically brings light to the oversight the government had in drafting this bill, which included engineers. This rightfully puts engineers into the bill, where they belong.

The Chair (Mr. Grant Crack): Further discussion? Mr. Milczyn.

Mr. Peter Z. Milczyn: We won't be supporting this amendment. We have brought forward a different motion that addresses the concerns we've heard from the engineering community. The wording of this particular amendment may have unforeseen consequences, as there are already several other pieces of legislation that govern both professional engineers and architects—their own respective acts, as well as the Building Code Act—so our view is that our amendment will be a cleaner amendment that will achieve a similar result.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call the vote on PC motion number 10, which is an amendment to paragraph 2 of subsection 7(1).

Ayes

Natyshak, Thompson, Yurek.

Nays

Dickson, Dong, Hoggarth, Kiwala, Milczyn.

The Chair (Mr. Grant Crack): I declare PC motion number 10 defeated.

We shall move to government motion number 11, which is an amendment to subsections 7(1), (2) and (3). Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that subsections 7(1), (2) and (3) of the bill be struck out and the following substituted:

“Requirements respecting certain professionals

“7.(1) The government shall require that the following persons be involved in the preparation of the design for the construction of every infrastructure asset described in subsection (2), unless it is not practicable in the circumstances:

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“1. If the government reasonably expects costs for the construction of the infrastructure asset to meet or exceed the amount prescribed for the purposes of this paragraph for the infrastructure asset,

“i. an architect as defined in the Architects Act, and

“ii. a person, other than an architect, with demonstrable expertise in and experience with design in relation to infrastructure assets.

“2. If the government reasonably expects costs for the construction of the infrastructure asset to meet or exceed the amount prescribed for the purposes of this paragraph for the infrastructure asset, a professional engineer as defined in the Professional Engineers Act.

“Applicable infrastructure assets

“(2) Subsection (1) applies to the following infrastructure assets:

“1. The following infrastructure assets, if they are wholly owned by the government:

“i. Infrastructure assets relating to transportation, including highways, bridges and transit stations.

“ii. Infrastructure assets intended primarily for the study and enjoyment of works in the arts or for the production of works in the arts.

“iii. Museums, as defined in regulation 877 of the Revised Regulations of Ontario, 1990 (Grants for Museums) made under the Ontario Heritage Act.

“iv. Infrastructure assets that have been identified as having cultural heritage value or interest under part III.1 of the Ontario Heritage Act, or that are located on a property that has been designated under part IV of the act or in an area designated as a heritage conservation district under part V of that act.

“2. Any other infrastructure assets wholly owned by the government that may be prescribed.

“3. Any infrastructure assets partly owned by the government, or for which the government provides any funding, that may be prescribed.

“Minister’s discretion

“(3) The minister may, subject to the approval of the Lieutenant Governor in Council, require that one or more persons referred to in subsection (1) be involved in the preparation of the design for the construction of any infrastructure asset that is wholly or partly owned by the government, or for which the government provides any funding, in a case where no such person or persons would be required under that subsection or otherwise to be involved.”

The Chair (Mr. Grant Crack): Before we get going, under 1 iv, Mr. Milczyn, following “Ontario Heritage Act,” you read “or the are located” and “of the act.” According to what I have here, it’s “that.” Would you like to stay with “the” or correct it to “that”?

Mr. Peter Z. Milczyn: I’d like to correct my record to stay with what was submitted in writing.

The Chair (Mr. Grant Crack): “That” in the place of “the”?

Mr. Peter Z. Milczyn: Yes.

The Chair (Mr. Grant Crack): That would be great. Further discussion? Mr. Milczyn.

Mr. Peter Z. Milczyn: I believe this will address the concern that was raised by the professional engineering community when the bill was originally introduced, making explicit reference to architects only. It was never the intention to leave the impression that the engineering community would be in any way removed from the preparation of plans or required documentation for any type of infrastructure that they are by law required to do, or that makes sense under the circumstances.

This strives to address the issue. Architects are involved when they are required to be, engineers are involved when they are required to be, but the government may at times involve architects or other design professionals in projects as they see fit, where there may be added value gained from additional design expertise being applied to the design or planning of that particular asset.

The Chair (Mr. Grant Crack): Mr. Natyshak?

Mr. Taras Natyshak: I have a couple of questions—at least one glaring question on this. The amendment

reads that if a project is expected to meet or exceed costs, architects, engineers and others with expertise are not required to partake in the project. When we had the original debate of the bill, second reading in the House, there was a lot of fanfare around the fact that this was going to be incorporated within the procurement policy and within Bill 6. It was quite widely celebrated by the architectural community in Ontario as recognizing the value that they bring in design and quality as well as longevity and performance of our various assets and infrastructure projects.

I’m wondering if the government actually recognizes what the language says here—because we would need some clarification on the intent specifically of subsection 7(1). The section is saying, “If the government reasonably expects costs for the construction of the infrastructure asset to meet or exceed” previously estimated amounts, then architects, engineers and other experts will not be involved in the construction design.

Is the government saying that they will only be involved if the costs fall below the forecast threshold? I think that falls well below what was explained and, I guess, offered to the professional architects in the province of Ontario. I’d love some clarification on that.

The Chair (Mr. Grant Crack): Further discussion? Mr. Milczyn.

Mr. Peter Z. Milczyn: I take the member’s comment, and I understand what he means. The regulations have not yet been drafted, but the intent is that where you have projects of a certain financial value—which I assume would be relatively small—where perhaps no design professional is required at all, notwithstanding this act, it wouldn’t impose that requirement and those additional costs.

It could be the installation of a road sign. It could be any number of things that are part of an infrastructure project that are of so little inherent value that ascribing the need for design professionals that wouldn’t otherwise be required could add costs and complexity.

The intent of this bill was to ensure that when more significant infrastructure assets are being built, they’re built to the highest design possible, that value is being added through the design for the resiliency of that asset, its longevity, innovation in the use of materials or design elements and its ability to add to the landscape or to the urban streetscape. That does not mean that you would involve an architect or an engineer in every single project, even if it’s extremely minor. I don’t think anybody wants to add unnecessary costs or unnecessary burdens on infrastructure projects.

The Chair (Mr. Grant Crack): Further discussion? Mr. Natyshak.

Mr. Taras Natyshak: I appreciate Mr. Milczyn’s clarifications on that. However, the section says, “If the government reasonably expects costs for the construction of the infrastructure asset to meet or exceed” previously estimated amounts. To me, that doesn’t indicate or set a threshold in terms of the size of the infrastructure project nor the nature. It simply says the value. So if it comes in

at estimated costs or above, then the language within this amendment specifically precludes the government from involving architects or engineers within the design elements of it. That is a little bit ambiguous.

Although we fully support the inclusion of our professional architects and engineers within the design phases and as a matter of procurement, because it is ambiguous and allows way too much of an open door for the government to eliminate or exclude those professionals, we're going to have to vote against this amendment, Chair.

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The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on government motion number 11, which is an amendment to subsections 7(1), (2) and (3).

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn.

Nays

Natyshak.

The Chair (Mr. Grant Crack): I declare government motion 11 carried.

We shall move to the section, as amended. Is there further discussion on section 7, as amended? There being none, I shall call for the vote.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

The Chair (Mr. Grant Crack): I declare section 7, as amended, carried.

We shall move to section 8. We have PC motion number 12, which is an amendment to subsection 8(2). Mr. Yurek.

Mr. Jeff Yurek: I move that subsection 8(2) of the bill be struck out and the following substituted:

"Apprentices

"(2) The government shall not impose any requirements respecting the numbers of apprentices that must be engaged or employed in the construction or maintenance of infrastructure assets."

The Chair (Mr. Grant Crack): Further discussion? Mr. Milczyn.

Mr. Peter Z. Milczyn: Thank you, Mr. Chair. We will not be supporting this amendment. It creates a conflict with the apprentice-to-journeyman ratio under the Ontario College of Trades and Apprenticeship Act. The ratios are there to ensure that there's a sufficient balance between journeymen and apprentices, for safety and a variety of other reasons, and it ensures the quality of on-the-job training for apprentices, as well. We

have submitted another amendment that I believe will address this issue in a different way.

The Chair (Mr. Grant Crack): Thank you. Mr. Yurek.

Mr. Jeff Yurek: Chair, I think if the government took another look at this motion—it has nothing to do with apprentice ratios at all, but where, in fact, the government is prescribing quotas for the number of apprentices. I'm sure the government side was here during testimony, deputations, preparing for clause-by-clause, where many businesses were saying it's quite impractical to state how many apprentices must be in a job, only to multiply that by the number of journeymen that must be in attendance due to the ratios. So we're basically just saying, don't tie the hands of private business in this province by ensuring that a set amount of apprentices must be onsite.

We do support the training of apprentices, as a party. However, we do respect the fact of the costs and the ability to actually carry out these infrastructure projects when you set the prescribed amount of apprentices on a site, as opposed to letting the businesses craft their journeymen—therefore bringing out their apprenticeships to ensure that we are able to complete these jobs on task and on budget and ensure that training can be continued on for our apprentices.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call the vote on PC amendment number 12.

Ayes

Thompson, Yurek.

Nays

Dickson, Dong, Hoggarth, Kiwala, Milczyn.

The Chair (Mr. Grant Crack): The PC motion, which is an amendment to subsection 8(2), is defeated.

We shall move to government motion number 13, which is section 8. Mr. Milczyn, enjoy your read.

Mr. Peter Z. Milczyn: Thank you, Mr. Chair.

I move that section 8 of the bill be struck out and the following substituted:

"Requirements re apprentices

"Definitions

"8.(1) In this section,

"'apprentice' means an individual who, under the Ontario College of Trades and Apprenticeship Act, 2009, has entered into a registered training agreement under which the individual is to receive training in a trade required as part of an apprenticeship program established by the Ontario College of Trades; ('apprenti')

"'registered training agreement' means an agreement registered under section 65 of the Ontario College of Trades and Apprenticeship Act, 2009 under which an individual is to receive training in a trade required as part of an apprenticeship program established by the Ontario College of Trades; ('contrat d'apprentissage enregistré')

“‘trade’ means a trade prescribed under subsection 74(3) of the Ontario College of Trades and Apprenticeship Act, 2009 as a trade for the purposes of that Act. (‘métier’)

“Commitment re intended use of apprentices

“(2) A bidder that enters into a procurement process for the construction or maintenance by the government of an infrastructure asset shall, in the prescribed circumstances, provide to the government as part of the procurement process a commitment respecting the intended use of apprentices in the construction or maintenance in the event of a successful bid.

“Prescribed requirements

“(3) A commitment provided under subsection (2) shall meet the prescribed requirements.

“Apprenticeship plan

“(4) Every bidder referred to in subsection (5) that enters into a procurement process for the construction or maintenance by the government of an infrastructure asset shall provide to the government a plan for the intended use of apprentices in the construction or maintenance, in the event of a successful bid, that,

“(a) includes the following information:

“(i) the number of apprentices whom the bidder intends to employ for the construction or maintenance in each trade,

“(ii) the methods by which the bidder intends to support the completion by those apprentices of their training under the registered training agreements into which they have entered,

“(iii) the methods by which the bidder intends to create employment opportunities arising from the construction or maintenance for apprentices who are women, aboriginal persons, newcomers to Ontario, at-risk youth, veterans, residents of the community in which the infrastructure asset is located or any other persons specified by the regulations; and

“(b) meets any other requirements that may be prescribed.

“Same, application

“(5) Subsection (4) applies to,

“(a) a successful bidder that was required to provide a commitment to the government under subsection (2) and, in the prescribed circumstances, any other successful bidder; and

“(b) any other bidder, in the prescribed circumstances, as part of the procurement process.

“Non-compliance during procurement process

“(6) The government shall not consider the bid of a bidder that is required to provide, as part of the procurement process, a commitment under subsection (2) or a plan under subsection (4) in accordance with the prescribed requirements, and fails to do so.

“Obligations regarding ratios

“(7) For greater certainty, information included in a commitment or plan provided for the purposes of this section must conform to any applicable requirements respecting journeyperson-to-apprentice ratios that are

established for the purposes of section 60 of the Ontario College of Trades and Apprenticeship Act, 2009.

“Public availability

“(8) A bidder shall, in the prescribed circumstances, make a commitment or plan it has provided for the purposes of this section available to the public in the prescribed form or manner.”

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If I have strayed from the written submission that was made, in any way, the written submission should be the official version.

The Chair (Mr. Grant Crack): I think you did marvellously. Congratulations.

Any further discussion on that short motion? Mr. Yurek.

Mr. Jeff Yurek: Chair, I’m quite concerned that they turned down our motion, previously, and put forward a motion on red tape. I think we should be building more competitiveness in our business climate. However, all this does is add more red tape. All we seem to hear about from businesses throughout this province—other than hydro prices and a lack of proper transportation modes—is the massive, massive red tape throughout the industry. I’m quite shocked that this government has just thrown in a whole pile of red tape into this bill when unfortunately we shouldn’t have to be doing so.

The Chair (Mr. Grant Crack): Thank you. Mr. Milczyn.

Mr. Peter Z. Milczyn: Well, in fact, this amendment proposes to ensure that bidders on projects will submit, as part of their bid through the procurement process, a plan on how they propose to address the issue of apprentices to journeypersons on a specific project. This will vary by type of infrastructure, by type of trades that are involved. This, in fact, will ensure that the goals of ensuring that there are substantial apprenticeship opportunities throughout the province are addressed, that the training is of a high quality and that the workplaces are safe. It is not our government’s intention to undermine the Ontario College of Trades and Apprenticeship Act. We actually want to see it working in practice, not through red tape but actually through pouring concrete and directing steel and the other construction that will be done throughout the province.

The Chair (Mr. Grant Crack): Thank you, Mr. Milczyn.

Further discussion? Ms. Thompson.

Ms. Lisa M. Thompson: I just need to concur with my colleague from Elgin–Middlesex–London. I have to tell you that I can’t believe how much this government continues to choose to bury small business under red tape. It shows that there is an absolute disconnect between small business in Ontario and where this government is heading.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call for the vote on section 8 of the bill, which is government motion number 13.

Interjections.

The Chair (Mr. Grant Crack): A little bit of order would be appropriate. I shall call for the vote.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

Nays

Thompson, Yurek.

The Chair (Mr. Grant Crack): I declare government motion number 13 carried.

Section 8 is amended. I shall ask, is there any further discussion on section 8, as amended? There being none, I shall call for the vote.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

The Chair (Mr. Grant Crack): I declare section 8, as amended, carried.

We shall move to section 9. There are no amendments. Is there any further discussion on section 9? There being none, I shall call for the vote on section 9.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson, Yurek.

The Chair (Mr. Grant Crack): Section 9 is carried.

Section 10: There are no amendments. Is there any further discussion on section 10? There being none, I shall call for the vote on section 10.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson, Yurek.

The Chair (Mr. Grant Crack): I declare section 10 carried.

We shall move to section 11, which is PC motion number 14 in your package, an amendment to subsection 11(1). Mr. Yurek.

Mr. Jeff Yurek: I move that subsection 11(1) of the bill be amended by adding the following clause:

“(0.a) specifying what constitutes acceptable recycled aggregates;”

The Chair (Mr. Grant Crack): Further discussion?

Mr. Peter Z. Milczyn: Mr. Chair, we won't be supporting this amendment. It duplicates what is already in this bill. There is existing language under section 11(1)(f) that gives the government the ability to make

regulations specifying anything that is not defined in the bill.

As I said earlier, the Ministry of Natural Resources is continuing to assess what should constitute acceptable recycled aggregates.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call for the vote on PC amendment number 14.

Ayes

Natyshak, Thompson, Yurek.

Nays

Dickson, Dong, Hoggarth, Kiwala, Milczyn.

The Chair (Mr. Grant Crack): I declare PC motion number 14 defeated.

We shall move to government motion number 15, which is an amendment to subsection 11(1), with a new clause.

Mr. Peter Z. Milczyn: I move that subsection 11(1) of the bill be amended by adding the following clause:

“(c.1) for the purposes of section 5.1,

“(i) prescribing broader public sector bodies,

“(ii) setting out the infrastructure asset management plans that must be prepared under subsection 5.1(1) and governing their preparation, including governing their form, content and timing,

“(iii) setting out any additional infrastructure asset management planning information that must be prepared under subsection 5.1(2) and governing its preparation, including governing its form, content and timing,

“(iv) prescribing ministers of the crown for the purposes of subsection 5.1(4), and

“(v) governing the circumstances in which a plan prepared under subsection 5.1(1) or information prepared under subsection 5.1(2) must be made available to the public and governing the form or manner of that availability;”

The Chair (Mr. Grant Crack): Further discussion?

Mr. Peter Z. Milczyn: Mr. Chair, during consultations and from witnesses, we heard about this concept. It's important that all broader public sector bodies—the provincial government as well as municipalities and others—have data at their fingertips in order to make smart decisions about prioritizing infrastructure planning.

This will set out the requirement that there will be infrastructure management plans that will be in somewhat of a standardized form, that they will be accountable and transparent, and that that will be utilized by all in terms of assessing which infrastructure projects should proceed first.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on government motion number 15.

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson, Yurek.

The Chair (Mr. Grant Crack): There being none opposed, I declare government motion 15 carried.

We shall move to government motion number 16, which is an amendment to clause 11(1)(d). Mr. Milczyn.

1520

Mr. Peter Z. Milczyn: I move that clause 11(1)(d) of the bill be struck out and the following substituted:

“(d) for the purposes of section 7,

“(i) prescribing amounts for the purposes of paragraph 1 or 2 of subsection 7(1),

“(ii) prescribing infrastructure assets for the purposes of paragraph 2 of subsection 7(2), and

“(iii) prescribing infrastructure assets, including any asset referred to in subparagraphs 1 i, ii, iii or iv of subsection 7(2), for the purposes of paragraph 3 of that subsection;”

The Chair (Mr. Grant Crack): Further discussion? Mr. Milczyn.

Mr. Peter Z. Milczyn: This refers to the previous amendment that supports the inclusion of engineers and architects on design teams, as they're required for their design expertise. It fulfills our commitment that we made to engineers to ensure that their role will be honoured in this legislation. It also clarifies the respective roles of architects and engineers.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the question.

Ayes

Dong, Hoggarth, Kiwala, Milczyn.

Nays

Natyshak.

The Chair (Mr. Grant Crack): I declare government motion 16 carried.

We shall move to government motion number 17. Mr. Milczyn.

Mr. Peter Z. Milczyn: I move that clause 11(1)(e) of the bill be struck out and the following substituted:

“(e) for the purposes of section 8,

“(i) governing the circumstances in which a commitment must be provided under subsection 8(2), and governing the preparation and provision of commitments, including governing their form, content and timing,

“(ii) governing the circumstances in which a plan must be provided under subsection 8(4), and governing the preparation and provision of plans, including governing their form, content and timing, and

“(iii) governing the circumstances in which a commitment or plan provided for the purposes of the section

must be made available to the public and governing the form or manner of that availability;”

The Chair (Mr. Grant Crack): Any further discussion on government motion number 17? Ms. Thompson.

Ms. Lisa M. Thompson: We just need to reiterate where we stand on this. This is not a proper way to support apprenticeship training in Ontario. Thanks.

The Chair (Mr. Grant Crack): Mr. Milczyn?

Mr. Peter Z. Milczyn: I appreciate Ms. Thompson's views on apprenticeship training. This particular amendment, however, is about putting in place the authority for the government to implement apprenticeship training. It has been well received by a variety of stakeholders. We believe this is the way that we're going to ensure that young people and others across this province have good opportunities to learn trades and participate in the benefits from the infrastructure construction.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on government motion 17.

Ayes

Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

Nays

Thompson.

The Chair (Mr. Grant Crack): I declare government motion 17, which is an amendment to clause 11(1)(e), carried.

We shall move to PC motion number 18, which is an amendment to clause 11(1)(e). Ms. Thompson?

Ms. Lisa M. Thompson: I move that clause 11(1)(e) of the bill be struck out.

The Chair (Mr. Grant Crack): Further discussion? Ms. Thompson.

Ms. Lisa M. Thompson: Again, we do not see the value for money, and we question the return on investment by forcing companies to commit to unrealistic apprenticeship numbers. It's a burden of more bureaucratic red tape that we're seeing from this Liberal government. We're hearing from our stakeholders that it's absolutely not necessary.

The Chair (Mr. Grant Crack): Further discussion? Mr. Milczyn.

Mr. Peter Z. Milczyn: Well, we fundamentally disagree with the opposition. It's important, as we build \$130 billion worth of infrastructure across this province over the next 10 years, that young people and others throughout the province have the opportunity for good apprenticeship training in safe circumstances, that the trades and skills that are required are taught, and that this is done in a way that's consistent with the Ontario College of Trades and Apprenticeship Act. That will actually create the greatest value for the residents of Ontario.

The Chair (Mr. Grant Crack): Ms. Thompson.

Ms. Lisa M. Thompson: I just want to make sure everyone understands that the PC Party of Ontario supports proper training and that we encourage growth in skilled trades, absolutely. However, this section of the bill does not achieve those goals.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on PC motion 18.

Ayes

Thompson.

Nays

Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

The Chair (Mr. Grant Crack): I declare PC motion number 18 defeated.

We shall move to section 11. There were three amendments, so section 11 is amended. Are there any comments prior to me calling the vote? There are none. Shall 11, as amended, carry?

Ayes

Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

The Chair (Mr. Grant Crack): I declare section 11, as amended, carried.

We shall move to section 12; there are no amendments. Any discussion on section 12? There being none, I shall call the vote. Shall section 12 carry?

Ayes

Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

The Chair (Mr. Grant Crack): I declare section 12 carried.

We're dealing with section 13. Is there further discussion on section 13? There being none, I shall call the question. Shall section 13 carry?

Ayes

Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

The Chair (Mr. Grant Crack): I declare section 13—those opposed? I declare section 13 carried.

I got to the fourth-last one before I made an error, so I apologize. Could I have unanimous consent that I could redo that one?

Laughter.

The Chair (Mr. Grant Crack): We shall move to the title of the bill. There are no amendments. Any discussion on the title? There being none, shall the title of the bill carry?

Ayes

Dong, Hoggarth, Kiwala, Milczyn, Natyshak.

The Chair (Mr. Grant Crack): I declare the title of the bill carried.

Bill 6 is amended. Any further discussion on the amended bill? I shall call the question. Shall Bill 6, as amended, carry?

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson.

The Chair (Mr. Grant Crack): I declare Bill 6, as amended, carried.

Mr. Peter Z. Milczyn: Point of order, Mr. Chair.

The Chair (Mr. Grant Crack): Point of order: Mr. Milczyn.

Mr. Peter Z. Milczyn: Mr. Natyshak early in the proceedings made a comment. I just wanted to clarify that indeed, our government has applied to the federal Building Canada Fund for a number of projects. I believe Mr. Natyshak said that we hadn't applied. We submitted 108 projects to the federal government. The Ottawa River Action Plan so far—

The Chair (Mr. Grant Crack): Thank you very much, Mr. Milczyn. That is not a point of order; that's a point of debate. I appreciate that. I would like to continue my work with regard to reporting the bill to the House. I appreciate your point of order. Good try.

So the bill is amended. Shall I report the bill, as amended, to the House on your behalf? Further discussion? There being none, I shall call the question.

Shall I report the bill, as amended, to the House?

Ayes

Dickson, Dong, Hoggarth, Kiwala, Milczyn, Natyshak, Thompson.

The Chair (Mr. Grant Crack): I shall report the bill, as amended, to the House. Carried.

I thank you all very much for your excellent work.

Mr. Joe Dickson: Chair, congratulations on chairing a great meeting.

The Chair (Mr. Grant Crack): Sorry?

Mr. Joe Dickson: Great job. Thank you, sir.

The Chair (Mr. Grant Crack): I really appreciate the support that you give me, and that all of you give me.

Just a reminder that on June 3 at 4 p.m., we will be meeting to discuss Bill 30. We have four presenters coming before us during the public hearings, but there is room for eight. If there are more that come forward, would the committee consider allowing more to come forward to fill up the extra four time slots? I'm just asking.

Interjection.

The Chair (Mr. Grant Crack): I hear a yes. Do I hear anyone opposed? Is it the consensus of the committee, if there are more presenters wishing to come forward during the public hearing process, that the Clerk be authorized to put them on the schedule on a first-come, first-served basis? Is there anyone opposed? Further discussion? There being none, I will assume that

the committee is in agreement that if there are up to four more who wish to come before the committee, it will be allowed on June 3.

I'd like to thank everyone very much. An hour and a half—great work.

Adjourned.

The committee adjourned at 1532.

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Legislative Assembly of Ontario

First Session, 41st Parliament

Assemblée législative de l'Ontario

Première session, 41^e législature

Official Report of Debates (Hansard)

Wednesday 3 June 2015

Journal des débats (Hansard)

Mercredi 3 juin 2015

Standing Committee on General Government

Highway Incident
Management Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015 sur la gestion
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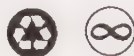
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 3 June 2015

Mercredi 3 juin 2015

*The committee met at 1601 in committee room 2.*HIGHWAY INCIDENT
MANAGEMENT ACT, 2015
LOI DE 2015 SUR LA GESTION
DES INCIDENTS DE LA ROUTE

Consideration of the following bill:

Bill 30, An Act to require the establishment of an advisory committee to make recommendations to the Minister of Transportation and the Minister of Community Safety and Correctional Services for the improvement of highway incident management / Projet de loi 30, Loi exigeant la constitution d'un comité consultatif pour formuler des recommandations au ministre des Transports et au ministre de la Sécurité communautaire et des Services correctionnels en ce qui concerne l'amélioration de la gestion des incidents de la route.

The Chair (Mr. Grant Crack): Good afternoon, everyone. I'd like to call the Standing Committee on General Government to order. I'd like to welcome all members of the committee, the Clerk's office, Hansard, legislative research, presenters, staff and everybody to this glorious afternoon.

This afternoon we will be having public hearings on Bill 30, An Act to require the establishment of an advisory committee to make recommendations to the Minister of Transportation and the Minister of Community Safety and Correctional Services for the improvement of highway incident management. Having said that, all presenters will be able to make a five-minute presentation to the committee, followed by three minutes of questioning from each of the three parties.

ONTARIO GOOD ROADS ASSOCIATION

The Chair (Mr. Grant Crack): At this time I would like to welcome, from the Ontario Good Roads Association, our first presenter, Mr. Scott Butler, who is the manager of policy and research. Long time no see.

Mr. Scott Butler: This is my third trip here this month.

The Chair (Mr. Grant Crack): Welcome.

Mr. Scott Butler: I've worn grooves into the chair. Good afternoon. My name is Scott Butler. I'm the policy manager for the Ontario Good Roads Association.

Since 1894, OGRA has represented the transportation infrastructure needs of Ontario's municipalities. I'm here today to lend OGRA's full support to Bill 30. The need for a multi-party coordination to respond to highway incidents is long overdue. The current approach to highway incident management has had a number of unfortunate consequences for Ontario municipalities, and it is an ongoing source of aggravation. OGRA believes that Bill 30 can address long-standing problems with Ontario's emergency detour routes, or EDRs, and that a formalized approach to highway incident management is the way to go.

Simply put, in their current form, EDRs are a thorn in the side of municipalities. When this program was implemented, municipalities asked MTO for financial support for signage and geometric improvements to the road networks. Such improvements included things like paving wider radiuses to accommodate turning trucks. MTO countered by providing signs and assurances that municipalities would see a benefit by avoiding the confusion that typically followed a highway closure.

At the same time, many of the EDRs that were established were done without properly considering the impact on affected communities. In many cases, the only suitable roads for EDRs ran directly through residential areas which were never intended or designed to handle 400-series levels of traffic. Other routes that would have been ideal alternatives were not built to the structural standards to handle this type of traffic, even on a short-term basis.

Much to the chagrin of many municipal engineers, the MTO has tended to overlook local proscriptions on overweight and over-dimensioned vehicles. These vehicles, simply put, should not be crossing local bridges or culverts that are not designed or intended to handle overweight loads. Incident commanders seem primarily concerned, when EDRs are employed, with getting traffic off the highway. Requests to develop a protocol to address this concern have gone nowhere.

As mentioned earlier, the use of EDRs significantly increases traffic volume in towns and villages across Ontario. The OPP do not employ officers during an incident to direct traffic along these routes. Rather, motorists and, in particular, trucks, often find themselves attempting to use other routes, which can often amplify the problem. OGRA believes that the use of an EDR must be viewed as of equal import to the original

incident. The need to remedy this is even more acute in the winter, when levels of service dictate a municipality's liability and exposure to risk.

As one might expect, the current approach came to its natural conclusion recently at an incident in Middlesex county, where the 401 had been closed and traffic was pushed off onto a proposed EDR route. Almost immediately, two trucks blocked an intersection, could not pass one another, blocked themselves in and blocked traffic up considerably. A protocol like that proposed in Bill 30 would do two things: First, it would leverage local knowledge, and more importantly, it would avoid incidents like this.

Municipalities have not been any better served by the existing patchwork approach to incident management. In the GTHA, approximately \$6 billion worth of economic activity is lost to congestion each year. The city of Toronto has estimated that approximately 50% of congestion is caused by incidents on highways. The quicker these are cleared, the less congestion there will be. It is estimated that this would cost between \$2 million and \$4 million per year, for an incident response team to be deployed on the Gardiner and the DVP, for instance. This would be a prudent investment, since it appears, the same study has found, to return savings of almost 10 to 1.

Municipalities have been rightly skeptical of the way highway incidents have been managed in Ontario up to this point. The municipal perception and the municipal experience is that the province is content to provide signs and transfer its traffic problems onto municipal roads when convenient, without concern for the impact on local infrastructure or local communities. OGRA believes Bill 30 will provide proper assurance that incident management will be a collaborative process. Municipalities are eager to ensure that their concerns are incorporated into a new approach to incident management that establishes them as partners alongside the OPP and MTO.

I urge you to adopt Bill 30 as soon as possible. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Butler. We shall start with the official opposition. Ms. Martow.

Mrs. Gila Martow: Thank you so much for coming in. I think, as the person who worked on this bill, that we didn't get into specifics because what we want to do is we want to work collaboratively—all parties, and with stakeholders such as yourself—and that maybe we need to focus on first starting, as you mentioned, with the Gardiner and the Don Valley, and then maybe moving on to other roads. I was wondering if maybe you could get into some specifics of how you could see this being implemented.

Mr. Scott Butler: I think the aspirations of the bill, in terms of bringing the parties, the municipalities, the OPP, other affected stakeholders and MTO together to begin a conversation about the best approach, would do two things. It would leverage a lot of the expertise that's out there currently, and it's local expertise in terms of

knowing which roads are optimized for handling these traffic loads on a temporary basis.

I think the second thing that it would do is that it would allow that sort of dialogue to identify some best practices that can be replicated across the province. I'm not here to be a Cassandra about this, but it has been one of these ongoing irritants that we hear about time and time again from the municipal sector. Striking the committee and giving municipalities indications that some action is being taken to address this, I think, is the first step. Above and beyond that, I suspect that the people you put at that table will have the best solutions for whatever it is that you're considering.

Mrs. Gila Martow: Okay, great. Are you aware—do I have any more time?

The Chair (Mr. Grant Crack): Yes.

Mrs. Gila Martow: Are you aware of what has been implemented in southern Florida in terms of response teams on the highways?

Mr. Scott Butler: Yes, we've looked at a few instances. Los Angeles also has a fairly advanced program. So do Atlanta and Chicago. They've noticed fairly quickly, once these teams have been identified, brought on board and implemented, that they realize what they're supposed to do. I know, in talking to the city of Toronto, that they're eager to replicate that. I think they see a really easy win here on this issue.

Mrs. Gila Martow: Okay. Well, fantastic. Time's up?

The Chair (Mr. Grant Crack): Thank you very much, Ms. Martow. We'll move to Mr. Gates, from the third party.

Mr. Wayne Gates: Hi. How are you?

Mr. Scott Butler: Fine. How are you?

Mr. Wayne Gates: Good. We've got lots of issues with municipalities around roads, particularly in the municipalities themselves. Have you had any dialogue around the liability and the amount of insurance that is now being paid by municipalities because of the responsibility on the accidents and stuff?

Mr. Scott Butler: Yes. We are actually currently leading the five-year review of the minimum maintenance standard, which was the response that the government provided to mitigate some of the unintended consequences of joint and several liability. So we're acutely aware of what that is.

1610

In relation to this issue, we haven't talked specifically about liability. The one thing that was identified when we reached out to our members was the issue of EDRs during wintertime. Oddly enough—it seems like some sort of cruel and unintended consequence—many of the winter maintenance yards are actually stationed on EDRs, so an incident will happen where a highway will be blocked, traffic will be diverted, and the snowplows can't get out because they're actually locked into traffic. Oddly enough, in the winter the snow that's causing problems on the 401 also is causing problems on the local road. This leads to a series of knock-on effects where you have to call in plows from further afield; in

particular, Wellington county was the municipality that identified this example.

The municipalities are acutely aware, almost to the point of being actuaries, of what risk is and how it can be managed, particularly when it comes to roadways.

Mr. Wayne Gates: I was a city councillor, so I knew that, to your point, more and more trucks are being diverted onto our streets, causing more and more problems, particularly around access.

You had a really good point around the cost of keeping highways clear: \$2 million to \$4 million.

Mr. Scott Butler: That was simply for the Gardiner and the DVP.

Mr. Wayne Gates: No, I knew that for around Toronto, because as you know, trucks are sitting for hours on the Gardiner or around Toronto. And a lot of the big manufacturers in the area are “just in time,” so when you take a look at where companies are going to decide to put a plant, if they know that their truck is going to be sitting idly for two and four and five hours, particularly during the winter months, and their assembly lines are waiting for the parts to get there, I think it’s a very small price to pay to clear the congestion off our roads. I don’t know what you think of that, but—

Mr. Scott Butler: Well, we hear from municipalities all the time that are trying to attract business, and they understand that congestion abatement is an enticement or discouragement for private industry looking to set up there. It’s something that’s top of mind for them.

Mr. Wayne Gates: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the government. Ms. Kiwala?

Ms. Sophie Kiwala: Thank you very much for being here, Scott. It’s great to see you and talk about this bill. I’m not sure if you’re aware, but—I’m sure you probably are, actually—in 2006 there was a similar committee that was struck to deal with these traffic congestion issues, and it was called the Faster Clearance Working Group, which ended in 2011. At the time, there were representatives from the OPP, the tow truck industry and the insurance industry to look at different ways of clearing highway incidents. At that time, we were looking at reducing the recovery times, avoiding worsening the situation with congestion, increasing awareness of the recovery companies and looking at the availability of proper equipment etc. I’m just wondering, considering we had that committee at that time, do you think that there might be better ways to address this issue other than through another committee? Is there any other way that you can see that we should be looking at it?

Mr. Scott Butler: I’ll admit I was not aware of this earlier committee. I would also say that my members wouldn’t be offering me the wealth of information and feedback about incidents on highways if they thought the committee had reached its objectives.

When we looked at the bill as an organization, the board of directors at OGRA were happy that the key stakeholders were included and that there was specific mention of municipalities as being equal partners to this.

I noticed that you didn’t mention that they were part of the earlier committee. The reality is that they have a lot of experience managing congestion overflows coming off of highways, but there’s a sense that, like many other undesirable things that flow downhill, congestion is one of those things that just gets pushed off on to a lower order of government. They would prefer to be there so that they can leverage their understanding and their knowledge of local conditions to make sure they would respond and create a system that will effectively manage it.

That said, there are lots of examples throughout the world. We referenced some earlier, particularly in the States, where they’ve been fairly successful in implementing different systems. We haven’t gotten to the point of analyzing which of those may be most desirable, but I suspect that if you strike this committee and begin implementing some of the prescriptions of this bill, we’ll be able to arrive at which one is best suited for Ontario very quickly.

The Chair (Mr. Grant Crack): I’m so sorry, Mrs. McGarry. Your time is up.

Mrs. Kathryn McGarry: Okay.

The Chair (Mr. Grant Crack): I appreciate you, Mr. Butler, coming before the committee this afternoon.

CAA SOUTH CENTRAL ONTARIO

The Chair (Mr. Grant Crack): Next, we have on the agenda, from CAA South Central, another gentleman we haven’t seen for some time: Mr. Silverstein, manager of government relations. Welcome, sir. You have five minutes.

Mr. Elliott Silverstein: Good afternoon.

The Chair (Mr. Grant Crack): Good afternoon.

Mr. Elliott Silverstein: Mr. Chair and members of the standing committee, my name is Elliott Silverstein and I’m manager of government relations at CAA South Central Ontario. I’m pleased to speak to you today regarding Bill 30, the Highway Incident Management Act, a private member’s bill that touches on one of the cornerstones of CAA: roadside assistance.

Across the province, CAA’s three Ontario clubs boast over 2.3 million members. We advocate on behalf of these members at Queen’s Park and at municipalities across the province on issues related to road safety, infrastructure and roadside assistance.

We have seen many important developments. Just yesterday the Legislature unanimously passed Bill 31, a bill that also incorporated “slow down, move over” provisions for tow trucks providing service on Ontario’s roads. This is an important step and makes Ontario the sixth province to have such legislation.

Bill 30 is a very simple piece of legislation. It isn’t partisan in any manner. It simply asks for an advisory committee to be created and make recommendations to the Minister of Transportation and the Minister of Community Safety and Correctional Services for the improvement of highway incident management. There are no

financial implications, simply having the right people—the industry experts, the key government officials—to further this dialogue. The idea of incident management came up during the past year through stakeholder panel meetings related to the regulation of the towing industry.

Bill 15 was passed late last year and combined two distinct pieces of legislation: auto insurance reforms and regulation of the towing industry. They are two items that are best served to be separate for discussion, mainly because the regulation of the towing industry should not be contingent on any auto insurance reforms. That said, during the recent stakeholder meetings around towing in Bill 15, CAA and many other stakeholders—some of whom you'll hear from today—tried to ensure that issues like incident management and provincial licensing would be included in the report to government, which should be received in the near future.

Instead, the Ministry of Government and Consumer Services invoked a very narrow scope, omitting several key elements for the successful regulation of the towing industry, a process that concerns us greatly. Incident—or scene management, depending on how you want to define it—is one of those issues. For CAA and many other stakeholders, we felt that these were significant errors on the part of the ministry, who showed reluctance to take panel feedback into consideration.

Incident management is not only the foundation for safety at the scene of a collision. It is a mechanism that would help address issues of fraud and issues around chasing, two elements that were defined in Bill 15 as important factors but have yet to be effectively addressed in a manner that brings an effective resolution for both industry and motorists alike.

If the government is truly concerned with addressing fraud, gouging, consumer protection and safety, Bill 30 not only needs to become law; it needs to coincide with the ongoing discussions related to the regulation of the towing industry. The discussions around regulating the industry have not gone as smoothly as one would have hoped, leaving massive gaps that could render the landscape far worse than the patchwork structure we see today. Incorporating Bill 30 is one, but certainly not the only, effort that could be made to ensure that the towing industry is able to continue operating, and enhance safety for motorists and tow operators on the sides of the roads while also helping facilitate consumer protection measures that are tied to towing regulations.

The Ontario Road Safety Resource—ORSR for short—data shows that Ontario has some of the safest roads in North America. We know that many but certainly not all tow trucks chase to the scene of an accident, which has its own risks attached to that. Through incident management, it helps provide structure, it helps eliminate various consumer protection issues, and it helps ensure safety for everyone at a collision or the scene of a vehicle breakdown.

As a non-partisan advocate for motorists and as a leading auto club in this province, CAA strongly urges this committee to pass this bill, help salvage ongoing

conversations about how to best regulate the towing industry and, simply put, help bring this bill to be passed through the Legislature as soon as possible. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Silverstein. We shall start with the third party. Mr. Gates.

1620

Mr. Wayne Gates: Well, you might have an opportunity to get the bill passed quickly, seeing as there's no cost to it. I just thought I'd throw that out there. It's something that we seem to be dealing with quite a bit: If it's free, the government will do it.

I've got a question for you, though. I agree with you on the bill. I spoke to the bill on the fact that they should never have put the auto insurance in with the towing. That was really just a way to divert attention when quite frankly, I believe, the number of challenges facing the towing industry and CAA should have had their own thing. The auto insurance took most of that debate—talked about the fraud, talked about reducing the interest rates, which really didn't really have much to do with towing. So I agree with you wholeheartedly that we should revisit that.

The other thing is, it's interesting that you talk about—because I hear this quite regularly. We have the safest roads in North America, but we've had a lot of challenges around our roads. I'm from Niagara; I don't know if you're familiar with Niagara.

Mr. Elliott Silverstein: I am.

Mr. Wayne Gates: Last year, during the winter season, we seemed to see a lot of your tow trucks around, particularly between Sodom Road and Fort Erie. The highway was shut down a number of times last year because of road safety. It's probably good for CAA, I guess; it creates a little bit of business. But at the end of the day, we had a lot of people get hurt down there.

We believe—or certainly I believe, and so do a lot of other people—a lot of it was because of the contracting out of the work. I know it might not be something you want to touch on, but if we're going to say that our roads are going to be safe, I think we should make sure that whoever we offer those contracts to at least has equipment. Maybe you could tell me if you had heard anything around the Sodom Road area or whether you were extra busy down in Niagara, because it really was a tough winter for that particular stretch of highway. It really came out that it was because of a contractor.

Mr. Elliott Silverstein: Specifically to the stretch of roads of the community you're talking about, I'm not familiar with it. But certainly when it comes to road safety, we are proponents of road safety. We are proudly partnering with the Ministry of Transportation, providing insights from our members to them and hearing what initiatives they're doing. I know the conversation has come up in recent weeks about the challenges, and I know they're being addressed. I think that as an advocate for road safety, we certainly want to be part of a solution and help articulate things that our members are telling us and what some of our operators are telling us.

The challenges have been there. There's certainly an opportunity to bring it forward and, looking forward, in that perspective, to try to learn from the challenges of the past. I think that weather climates are going to be the weather climates. We know that it's challenging each and every year, but we want to make sure our members are safe. We want to make sure our drivers are safe. If there are challenges to that, we want to be able to share that with the right people to ensure that we cover those gaps and make sure that they don't reopen again in the future.

Mr. Wayne Gates: Have I got time?

The Chair (Mr. Grant Crack): Sorry, Mr. Gates; it's up.

Mr. Wayne Gates: I'm okay?

The Chair (Mr. Grant Crack): No, you're good.

Mr. Wayne Gates: Okay. I just want to say—I know, but I want to say to you that I'm a CAA member, and so is my wife. She needs it more than I do.

Laughter.

The Chair (Mr. Grant Crack): That is in order.

We shall move to the government side—

Mrs. Gila Martow: Did you say it's out of order?

The Chair (Mr. Grant Crack): No, it's in order. Ms. Hoggarth.

Ms. Ann Hoggarth: Good afternoon, Mr. Silverstein. Thank you for your presentation. It's true; we have seen you a few times.

Mr. Elliott Silverstein: A few times.

Ms. Ann Hoggarth: But we love to know your opinion as a key road safety partner. It's very important to us.

In 2006, the Ministry of Transportation formed a committee exactly like the one specified in this bill. It was called the Faster Clearance Working Group. It was composed of representatives from the OPP, the trucking associations, the tow industry and the insurance industry. They were to examine the issues that impact rapid clearance on highways.

At the time, the committee was tasked with the mandates of finding ways to reduce recovery times in order to avoid worsening congestion; increasing awareness of how the recovery companies should be chosen to ensure availability of the proper equipment; and ways to prevent consumers from being gouged.

A number of initiatives came out of the working group, including the provincial highway incident management limited financial protection program, and also the Steer It Clear It initiative. The unfortunate part of it is that the Faster Clearance Working Group actually had to be suspended in 2011 because of limited stakeholder participation.

I'm curious to know your opinion about whether there might be a better way to address these kinds of situations than a committee.

Mr. Elliott Silverstein: It's tough to say, because dialogue amongst stakeholders is important. Different perspectives are at hand. I think that we need to find consensus. At the end of the day, we have to move forward. We can sit and discuss issues time and again, and too often, we do that. I think that it's important to

hear the different perspectives. Different solutions and different structures are always important.

From CAA's perspective, if there is an opportunity to be part of a solution for road safety, for the safety of tow truck operators, whether it be drivers stuck on the sides of the road or other initiatives, we're certainly happy to be there. I think that you have to start somewhere and build from there. Perhaps it's a committee that is spawned and that you discuss and it evolves into something greater, into some sort of a task force or an overarching body, whatever it may be.

We've seen, through the regulation-of-the-towing-industry discussions, that there is a need for further dialogue and interaction between government and stakeholders to ensure that people are protected and that the costs aren't going to be too prohibitive so that, at the end of the day, people who are stuck on the side of the road are not going to be paying too much money—excessive costs—and also they can get to safety in a reasonable amount of time.

Ms. Ann Hoggarth: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the official opposition. Mr. McDonell.

Mr. Jim McDonell: Like I say, they've talked about the committee that was formed in, I think 2008, but I've heard certainly from the tow truck companies in our area that there is some unhappiness. I guess it was suspended or not put in place. We have a committee that has done some work, but we haven't seen the benefits.

Have you, from a customer point of view, identified or heard much about long delays on the highway?

Mr. Elliott Silverstein: You're talking about specifically in terms of some of the challenges—

Mr. Jim McDonell: The 401s, yes.

Mr. Elliott Silverstein: Yes and no. Certainly when a collision occurs, there is a backlog. So certainly in terms of a service perspective, you want to be able to get to safety faster. I think that some of the challenge that people experience as a commuter when a vehicle breaks down is another issue in and of itself, because certainly we talk about congestion, especially in the greater Toronto area. It is significant—if we can find strategies to not only help try and address those issues but also make sure that people are protected at the same time so that if there is service being provided, they're not being gouged, that they're paying a rate that is in line with what the municipalities are setting out, that the equipment is in proper condition so that they get their vehicle back in a reasonable amount of time and they get to safety no matter the weather conditions.

Mr. Jim McDonell: I know one issue we had, when I was the mayor of South Glengarry, was damage done to the roads by the heavy traffic being moved across. In one location, we had a brand new road of about 10 kilometres that was open about six months, and there ended up being about \$800,000 damage to it. Our local roads, especially outside of Toronto, just aren't built for this, so it's causing a lot of trouble.

Mr. Elliott Silverstein: It is challenging. I think different roads are structured for different types of traffic going through. I think that, from our perspective, we talk about worst roads and the need for greater infrastructure at all points through the year. Certainly, we try to articulate that. But when you put it all together, at the end of the day, when you look at the particular issues at hand here, we want to make sure that people are safe. We want to make sure that tow truck drivers are safe. We want to make sure that motorists are safe, that people are able to get to and from safely. That's why we're in support of this bill. This bill, very simply, helps bring the issues forward in a dialogue that allows us to try and bring reasonable solutions at hand in a reasonable amount of time.

Mrs. Gila Martow: I think that what we want to hear is that it's not going to be just talk. I think that's what we're hearing concerns from the other side of the room: that we'll just have meetings and nothing will be accomplished. I think that it's very important how the task force is set up, that it can make some serious recommendations and feel like they're seeing something implemented, because people don't want to meet for four years and not see their recommendations implemented. Maybe after four years, they stop coming to meetings because, at the end of the day, it costs the stakeholders money to send people to attend these meetings. If their recommendations aren't implemented, even if it has unanimous support, they do get frustrated.

Mr. Elliott Silverstein: Absolutely. I think, at the end of the day, if the mandate is clear and the mandate is followed and the individuals involved have a vested interest for the greater good, that's what you're there for. I think that sometimes you have to put self-interest to the side. "Give a little to get a little" is really the order of the day. If it really is a committee that is designed to be for the betterment of the public, sometimes you have to look at the broader perspective and look at the broader solutions to ensure that everybody is safe. I think that absolutely I agree with you: We want to make sure that there is value in anything there. But the people who make up those committees will help define that.

Mrs. Gila Martow: Right. I'll just end by saying that you've had your meetings with the other stakeholders. They've been quite lively and a little bit on the antagonistic side, was my understanding, but you got it done and you got some legislation done, and they want to continue.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Silverstein. We appreciate you coming before committee this afternoon.

Mr. Elliott Silverstein: Thank you.

PROVINCIAL TOWING ASSOCIATION (ONTARIO)

The Chair (Mr. Grant Crack): Next: From the Provincial Towing Association of Ontario, we have Mr. Joey Gagne, who is the president. Welcome, sir. You have five minutes.

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Mr. Joey Gagne: Thank you for allowing me to speak today. Again, my name is Joey Gagne. I represent the towing industry as the president of the Provincial Towing Association.

I'm very excited to speak on this bill. The industry is an essential service in the rapid clearance of highways in Ontario. The Provincial Towing Association has been involved in the Bill 15 legislation to reduce fraud in the insurance industry and regulate the towing industry. Bill 15 does not deal with fraud very well and definitely doesn't deal with incident management in any way, shape or form.

We have consistently requested that attention be paid to the incident management process, basically falling on deaf ears. The current system for ordering towing and recovery services is badly broken. We have no organized plan to order qualified tow operators. The OPP and the MTO use a system that is called "first available." The "first available" system encourages accident-chasing and is very dangerous to the public. Furthermore, the system does not reduce traffic during major incidents such as truck wrecks.

Currently, if an accident happens on the 400-series highways the OPP make a general call out over one of their public channels to all available tow trucks that there is a crash, and the first on scene gets the job. This causes a great panic and a rush to the scene by all available heavy tow trucks and light-duty tow trucks. In an effort to put this into context, a heavy tow truck weighs between 45,000 and 60,000 pounds. To make my point clear, potentially you have 10 to 15 of these giant tow trucks about the size of a motor coach racing down the highway and up the shoulder of the roadway in an effort to secure a job.

This doesn't guarantee that the operator is qualified to provide the service required, but if you're first on the scene, you are likely to be allowed to try and possibly learn on the side of road, at the expense and time of everyone tied up in the ensuing traffic jam.

What it does guarantee is that we are placing the public in extreme danger to be at risk of these tow truck drivers who are being egged on by this process. Furthermore, in many conversations with the Ontario Trucking Association, they have been constantly bombarded with complaints from their members who have been subject to the process of these unqualified operators. The invoices clearly indicate that many of these cleanup jobs are being dragged out for financial gain.

Recently the MTO created an RFP that was intended to be a pilot project during the Pan Am Games and has been used in many US states effectively to vet tow companies and to dramatically speed up the cleanup process. Sadly, we were informed yesterday that the MTO caved in to some pressure from some parties, and we are again back at the drawing board with no plan and a huge traffic issue bearing down on us.

The process of clearing highways is severely hampered by the lack of a comprehensive plan. Ontario is

the economic engine of Canada and should not be without a plan when there are proven systems in other regions that work very well and have been in place for many years. I humbly request that you include us in your advisory committee because we have a lot to bring to the table. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Gagne. We shall start with the government. Ms. McGarry?

Mrs. Kathryn McGarry: Thank you very much for your presentation today. I'm the PA to transportation, so all these conversations are very important for me to hear. As you're probably very well aware, we were ecstatic to pass Bill 31 yesterday, and it received royal assent last evening. Interestingly, a lot of our safety partners were there yesterday to help us celebrate that. But in that legislation we've got the "slow down, move over" legislation that's now going to be extending to tow trucks on the side of the highway. So this is an area that this government is really committed to improving.

You've been hearing that the committee that was struck had to be unstruck in 2011 due to limited stakeholder participation. My question to you is: You have a lot to offer on this subject; do you have an idea of any better ways that we can have consultations with our stakeholders that may work better than a committee process?

Mr. Joey Gagne: I was on that committee.

Mrs. Kathryn McGarry: Okay.

Mr. Joey Gagne: I went to all the meetings, right to the very end. Most of the stakeholders were there, but the government kind of—people got transferred, retired. We were on that committee from the beginning till the end. We made some headway with the financial guarantee, which was because of an incident that happened on the 400 where no one would do the service because there was an issue with the trucking company that everyone had had prior relations with and no one would provide services to. So someone from the government had to provide a credit card to actually get the service provided so that we could open up the highway. So I have been involved.

Mrs. Kathryn McGarry: And this is why the provincial highway incident management limited financial protection program came in: because of that initiative.

Mr. Joey Gagne: Yes. So we did accomplish a number of things; it wasn't like nothing happened. We did accomplish a number of things. Like I said, I was on it from beginning to end. We tried to accomplish more towards what we're talking about today, and we just didn't get there.

Mrs. Kathryn McGarry: So moving forward, what would your suggestion be to be able to consult and actually get the message heard, even without a committee process, let's say? What would be your suggestions?

Mr. Joey Gagne: I think it has to be a forced process. It has to be legislation, because what's happening, as we get into these committee meetings—

Mrs. Kathryn McGarry: Legislation for coming together, you mean?

Mr. Joey Gagne: To force us to come together and force us to come up with some answers, because we've been talking about this for 40 years and the traffic is getting worse and worse. I run a towing company as well; I know what it's like. I can tell you that certain operators that are out on the road are not providing the quality of service that the public requires and, in fact, are providing a very substandard service and charging a premium for it, and the public is paying for that because of the economic impact based on, as I mentioned earlier, manufacturing customers or businesses that may not want to be in our municipalities because we have these traffic issues. Some of them could be solved much faster than they are.

The Chair (Mr. Grant Crack): Thank you very much.

Mrs. Kathryn McGarry: Thank you.

The Chair (Mr. Grant Crack): We appreciate it. We shall move to the official opposition. Ms. Martow?

Mrs. Gila Martow: There's a lot of new technology, as we know, that has come out in the last few years. One of them, the next presenter is actually going to be talking about, so that worked out really well for us, and that's basically having GPS on all the tow trucks. We all know how Uber works now, and the others. We've seen what happened. All the taxi companies now are doing similar: that you can see on your smart phone or computer where the car actually is. That's one of the things that I would like to see the new task force looking at. Is that something that you think would be beneficial?

Mr. Joey Gagne: I definitely think that technology is a great thing. Any opportunity to make the process more efficient—I think that we can definitely make use of that type of technology. But at the beginning parts of the process, where I think we're falling down is that there's no process to vet these operators from the beginning. Once we've vetted them and figured out that they're qualified to do the job and that they're going to do what the public needs and not what they need, then I think we will definitely benefit from using that type of technology.

Mrs. Gila Martow: Right. Think about it: If they're not locked into the technology—they're going to be vetted and they're going to get the technology. If they're not following the rules, they're going to be shut out of the system. There are not going to be any calls going out on a shortwave radio saying there has been an accident. Maybe even the public could have the technology as well to participate somehow. But I'd love to see—just take, say, the Gardiner or the Don Valley and test it out—

Mr. Joey Gagne: Anything we can do to marry up the technology would work.

Mrs. Gila Martow: Yes; absolutely.

Mr. Jim McDonell: You're done?

Mrs. Gila Martow: Yes; go ahead.

Mr. Jim McDonell: So I guess you've been involved in these other committees, which there are some recommendations being made but you haven't seen any progress on them?

Mr. Joey Gagne: There was an RFP that was put out that was basically intended to be a pilot project which would be run through the Pan Am Games in an effort to keep our roads clear. Everybody is working feverishly to do that. The RFP was put forward, everybody kind of threw their hats in the ring, and then the RFP was cancelled for some reason.

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I don't have intimate information as to why it was cancelled, but I can tell you that the RFP was based on the programs, which were mentioned earlier here by the first presenter, in Atlanta, LA, Florida, where they have a rapid clearance process, and that process is basically motivated by clearing the road quickly. You get a bonus for clearing it fast. You're not incentivized. Right now, the towers who are doing the heavy truck recoveries are incentivized to drag it out because they get paid hourly for their jobs.

They're incentivized by the government to clear the road faster, and that's got to have some value to everybody.

The Chair (Mr. Grant Crack): Thank you very much. We'll move to Mr. Gates.

Mr. Wayne Gates: A couple of things: On technology, GPS, all we have to do is look at Uber. Quite frankly, they're not regulated. We have no oversight. You can have all the technology in the world, but if there are no rules and regulations in place to follow, you can have problems. We take it back into your industry. If I have somebody coming to tow my car away and he doesn't have the qualifications, doesn't know how to do it properly, you're putting the public at risk. I think that's what you're trying to say in some of your comments: It doesn't make any sense, in an area of the province that is so heavily dependent on our highways being clear, that we're using unqualified tow companies or individuals—it could be individuals, I would think—on our highways. It makes absolutely no sense to me. I don't know if you agree with that or not.

Some of the problems with RFPs: They go to the lowest bidder. I don't know a lot about the Pan Am, but obviously, traffic is an issue. I was actually coming in from Niagara Falls on Sunday and I saw the sign saying, "Please have four or five people in your car so we can free up the highways for the Pan Am." Here you have a situation where we can't even get the tow contracts right around an RFP, because I would think your company, based on what the RFP was, would have bid on it—or towers that are in the area. So I tend to agree with you that we've got to make sure we're doing things better.

On your point about how you can have all the committees you want, you can have all the meetings you want, you can come up with all the good ideas you want, but somebody's got to be listening to you; you've got to have a dance partner. You understand the industry. The people who are on this side of the government—no matter who it is, because it has gone for over 40 years; I'm not trying to blame one or the other—you've got to have a dance partner who is going to listen, because

nobody knows how to fix our roads better than the people who are facing it every single day.

I don't know if there are any questions there or if you want to make any comments. I touched on a lot of things because this guy doesn't give me a lot of time and I talk too much. But if you want to comment on anything I said or if you disagree, I'll certainly take some notes on it.

Mr. Joey Gagne: I agree with almost everything you said. I believe the technology is there to speed up the process. I'm not a proponent of Uber the way it is today. I believe that that type of technology needs to be held accountable. They're not holding it accountable. They make claims that aren't necessarily correct. From our point of view—I mentioned that to one of the other presenters. It's great to have that technology, and I believe the technology—we're right there, we're almost there, but we have to have a process that goes with the technology.

To use Uber as an example, if you're not inspecting the person's car that's providing this Uber service, the person could be driving almost any vehicle that could be in any condition. They could be a criminal and they could have a bad driving record. When it comes to the towing part of it, we only want the most qualified operators providing this type of service. Everyone should be able to participate, but you don't get to do open heart surgery before you go to medical school; you just don't. If you do, it's called murder.

The Chair (Mr. Grant Crack): Thank you very much. Mr. Gagne, we appreciate you coming before committee this afternoon.

Mr. Joey Gagne: Thank you very much. We appreciate it.

The Chair (Mr. Grant Crack): You're welcome.

FAIR VALUE COMMITTEE

The Chair (Mr. Grant Crack): From the Fair Value Committee—long time no see, again—Mr. Lawrence Gold. Welcome, sir.

Mr. Lawrence Gold: Thank you. I was here not long ago. I think I described myself at that point in time as a fixer. If you look at Bill 15, most of what I suggested in terms of fixes are going to be there. You're going to see fair value. You're going to see notice reduction. You're going to see abandoned vehicles dealt with. I think, Mrs. Martow, you're going to enjoy this completely.

This is an extremely timely piece of proactive legislation, particularly in view of the fact that it follows directly on the heels of Bill 15, and we must understand exactly what Bill 15 has done and not done.

There is no need for me to explain to you or to suggest to you my perspective in terms of whether traffic incident management is necessary. I would simply suggest that you have a look at the statements made by the two coroner inquests that are constantly referred to, referencing the critical need for public safety and consumer protection.

In the 1992 Kevin Keefe coroner's inquest and then the September 2013 Nadarasa coroner's inquest, they included, specifically, jury recommendations in terms of traffic incident management as follows: "In order to enhance road safety and to ensure a controlled, orderly and equitable assignment of tow truck assistance in a timely fashion," the coroner's jury recommended, amongst other things, the establishment of a province-wide call system for the attendance of tow and recovery vehicles.

In fact, Bill 15, if you look at it, effectively incorporated and dealt with 99% of the recommendations which the coroner's jury had made in the Nadarasa inquest. Unfortunately, there was one item that was sidestepped, and that was the issue of traffic incident management. My understanding as to why it wasn't dealt with was that it was strictly a government policy reason, because the government felt at the time that the management and control of that issue should have been left to industry to self-regulate.

Unfortunately, self-regulation by the industry is not possible for a number of reasons, including the fact that a lot of the cards are held by the government, and including the fact that there are other, related issues—for example, the Competition Act. I'll explain that at another time.

I believe that this has now changed. As a result of the input from the stakeholders at the Bill 15 consultations, there is, for all intents and purposes, a very strong agreement, barring a few dissenters, that the issue of traffic incident management must be dealt with and was referred to as a critical issue that must be dealt with. If you don't deal with it, it was suggested that it would completely undermine all of the positive steps that were taken and that which was accomplished under Bill 15 in regard to dealing with the issues of consumer protection, regulation, training etc.

Basically, what the report on Bill 15 will say—and I was at the first regional meeting this morning—a critical topic for future discussion, as it may have significant consequences for consumer protection—that's talking about the consumer wallet—and public safety, which is the safety issues referred to in the coroner's inquest. Many panel members stated that they believe that defining and addressing traffic incident management is essential for the development of an effective regulatory network.

Mrs. Martow, as I read your commentary in the debates—you said the following: "We can definitely do better. We all agree that the technology is there and we just don't seem to be taking enough advantage of all the new software and technology."

What I'm going to show you now is probably going to be somewhat inspiring for you. This is a utilization of the existing state-of-the-art technology that deals with both vehicle positioning as well as the identification, as well as questions of timing and arrival. It is designed to do exactly what the Nadarasa coroner's inquest jury said, which is: "Enhance road safety and to ensure a con-

trolled, orderly and equitable assignment of tow truck assistance in a timely fashion."

If I can very quickly take you to the handout that I gave you, I'm going to run through it very quickly.

You'll notice the front page, that which I have referred to as Moving Ontario Technologically Forward. That's exactly what we have to do in order to make this thing work.

On page 2, this is an example, and you can see there's an accident located at Keele and 401. It gives you the time; it gives you the location. It gives you the details—for example, a 40-foot tractor-trailer combo. The trailer is rolled over; the truck is upright. The trailer is on the side, broken in half. There is a mixed-load spill: non-toxic liquid, and large industrial cement blocks strewn all over the highway.

If you go to the next page, this is the awe-inspiring page. If you could think of it in terms of an airline control tower, if you look at this page, it shows you exactly where the incident is. It identifies all of the six tow trucks in the area. It identifies two of them as being offline, and that's like a taxicab with his meter down because he's busy. It shows you the one that was chosen, which is LA Towing. It tells you who he is. It tells you what equipment he has. It tells you the definition of who the operator is and what his capacity is in terms of training. Then, you've got backup tower number 1, backup tower number 2 and backup tower number 3.

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Effectively, what happens is that the assignment is given from the command centre and it goes to the first truck that is closest. The other two or three are put on standby and they're called to the scene. Unfortunately, my printer forgot to include one other page. This system has a robust listing, which shows every piece of identifiable equipment that is necessary to handle the job, as Mr. Gagne said earlier, provided that there is some work done to verify that the equipment exists.

If I take you very quickly to the last page—

The Chair (Mr. Grant Crack): You're a minute and 50 over, but I'll give you a little bit more time.

Mr. Lawrence Gold: Okay. I just want to run through this quickly with you. These are the primary components of the system. All CVOR-approved towing operators may participate. Bill 15 will determine who is approved, who is not approved and what equipment is approved. Participants are free to go offline, if they see fit. Participant selection will follow a rotational model. Therefore, everybody gets a fair share, and it follows through. Participants will install the telemetric GPS unit in their vehicle, and it's both GPS and telemetrics. The difference is, GPS tells you where you are; telemetrics tells you how long it'll take you to get there. It exists because the MTO right now has little sensors on the highway, and that's how they know—on little cameras—how long it's going to take you to get where you're going.

The Chair (Mr. Grant Crack): Okay, thank you very much, Mr. Gold. I gave you an extra two minutes, which I did not afford to the other presenters.

Mr. Lawrence Gold: The rest is there for you to read.

The Chair (Mr. Grant Crack): So we'll start with Mr. Gates. I don't want to leave you too much time between talking, so you can go first, sir.

Mr. Wayne Gates: You're very kind.

An interesting comment that I picked up on—actually, I like this idea. It's no different than, if you can believe it, what we've been doing since, I think you said 1992, trying to figure out a solution since the coroner's inquest. Cab drivers have been doing that for years; even when I was growing up and I was a little guy, they had a system in place.

The other thing that I agree with you on is the industry as self-regulating. I never think that will work. Any time you have to write a report about yourself, very few people will say, "I'm not a very good MPP," if I'm writing it up myself; other people might. I think a good example of that is in the Auditor General's report, where they were allowing snow-removing companies to monitor themselves, write their own reports, and, at the end of the day, unfortunately we saw what happened to our roads. They became less safe. People had more injuries. I think the self-regulating is certainly one that's interesting.

This here, I think, quite frankly would be a winner. Hopefully, some people listen to you about it.

Mr. Lawrence Gold: I've spoken to a lot of people, and they have agreed.

Mr. Wayne Gates: I think it's a great idea.

The only thing I wanted to ask, because it wasn't spelled out there—you went through it pretty quick and I might have missed it. I apologize if I did. In listening to the last individual that presented about unqualified—so would that be part of the system where they'd have to be qualified and they'd have to have all that as well?

Mr. Lawrence Gold: Bill 15 is going to take care of that. Part of Bill 15, which you will see, will be a training program that's required. The training program will determine what level tow operator you are. Are you light-duty? Are you heavy-duty? They've suggested the utilization of WreckMaster. The highest WreckMaster order right now is a 6/7. I've suggested to WreckMaster that they add one more designation, which is an on-scene traffic management coordinator, the problem being now that they teach them in a fish bowl. Somebody has got to bring the MTO and the police together and say, "Here's what you do when you arrive on the scene and police aren't there in order to avoid getting killed."

Mr. Wayne Gates: That's why the partners have to come together.

Mr. Lawrence Gold: Well, CVOR is going to take care of all the training, all of the vehicle safety requirements and the licensing of the tow operators. It will be something probably similar to an air brake endorsement to drive a big rig. It will be an endorsement based upon your level of what you can safely remove from the road, starting from light-duty towing going to heavy-duty towing.

Mr. Wayne Gates: All right. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the government. Ms. Kiwala.

Ms. Sophie Kiwala: Thank you very much for your presentation—very interesting, very well put together, great energy that you have put into this presentation. You're obviously very committed to road safety. It's something that the government is also very committed to, as is evidenced by Bill 31. So I just wanted to thank you very much for that.

I'm wondering if you can tell me if you've had a chance to think about: If a committee was to be put together and you were going to be striking that committee, who would you choose to be partners in that committee?

Mr. Lawrence Gold: All of the stakeholders, including insurance, the towing community, police and MTO. I would add the Ministry of the Environment; they are a very important piece of the puzzle.

The other question which you asked an earlier individual: What would I do different? The challenge that you have is from a policy level, intergovernment. You've got the people at the lower policy level—for example, the police, the Ontario Association of Chiefs of Police—who have great ideas, but they need the acquiescence of the policy people in the minister's office to give them the marching orders to go ahead and do what has to be done. That's where you run into problems: where you're talking to the Indian, but the chief is making the decisions.

I've spoken to both chiefs and Indians, and everybody has the desire to move this forward based upon this type of paradigm. This one is different because it gives an alternative to the current situation where people are rushing to get there. You don't have to rush. If you are there, if you are closest, it's yours. You don't have to rush to get there, and you'll get your fair share.

Ms. Sophie Kiwala: Great. Thank you. Anything else?

The Chair (Mr. Grant Crack): One minute. Mrs. McGarry.

Mrs. Kathryn McGarry: Yes, thank you. The passage of Bill 31 yesterday, the Making Ontario's Roads Safer Act—the "slow down, move over" legislation is part of trying to keep tow truck drivers safe. Also, some initiatives have come forward from that limited engagement of the advisory committee. What other urgent pieces of legislation would you like to see advanced to protect the industry?

Mr. Lawrence Gold: Here's one of the problems you have with the "move over" legislation: You need to have a way to get the tow truck safely to the scene. In other words, somebody has got to escort them from the nearest exit, and somebody has got to protect them when they are there. There's another very important issue that can be—people think it's a little bit too spacey to do this, but police, when they investigate an action, use drones. There's nothing wrong with using the drone to have a look at what's there so that emergency medical and everybody knows what's on the ground. That has to do with the ministry of communications in terms of flight. So the same drone that's used to look at the accident

scene can be used in order to pass information to the command centre to say, “Okay, eyes on the ground, here’s what we’ve got there. We need this type of truck, that type of truck,” and whether you need this type of emergency vehicle. Then everybody knows what’s going on, and you’re basically following that US-Texas model and the United States transport ministry. They’re doing this already; we’re not reinventing the wheel.

The Chair (Mr. Grant Crack): Thank you very much—appreciate that. We’ll move to the official opposition. Mr. McDonell.

Mr. Jim McDonell: Thank you. Any idea of the cost of setting this up? Is it just the software?

Mr. Lawrence Gold: It exists. It has been put together. So it’s not a question of cost; it’s a question of will.

Mr. Jim McDonell: Okay. I know we’ve seen cases with fire trucks, people getting hurt and fire trucks being damaged. A lot of it is coordinating a response with the police and, as you say, getting people there safely. Once you’re outside the city of Toronto, police aren’t that readily available sometimes in serious accidents.

You have a list of places where they’ve already used it. I guess it is something that—it’s always best to take something that’s working and moving it in. You say it’s already set up. Is it already set up with the OPP?

Mr. Lawrence Gold: No, what I said is, first of all, there are currently rotation models that are being used all over Ontario; for example, Hamilton has one. This is that model enhanced by technology. So it’s not being used right now. There are bits and pieces all over. This is taken based upon my review of Texas and Florida, what everybody is doing, and enhancing it and what I call Ontario-sizing it in order to meet our specific requirements here.

Mr. Jim McDonell: Okay. So it would have to be put in place, and there is a cost. The OPP would manage that, or the police forces?

Mr. Lawrence Gold: The command centre would be controlled by a combination of OPP and the Ministry of Transportation, someone with a WreckMaster degree certification so they can see what’s there and make the determination as to what type of equipment. If you talk to the Ontario Association of Chiefs of Police, their primary accident investigators are WreckMaster 6/7 certified already. The talent is all there; there just has to be a will.

Mr. Jim McDonell: Okay.

Mrs. Gila Martow: What I would suggest is that I think that there are news outlets that would be very interested just like they are in giving traffic reports. They’re willing to pay to monitor and set up cameras. Could you envision a system where we would allow the news outlets to be in there and posting information for people on the radio and social media on where to stay away?

1700

Mr. Lawrence Gold: My vision would be that, for example, the Darryl Dahmers of this world would lend their video feed to the command control centre. You

heard Mayor Tory talking to him about the holdup on the Gardiner Expressway ramp: Why is he sitting there for three hours? Well, there’s no coordination. It doesn’t surprise anyone. So yes, all of that would be used. We’re living in an information age; we’re just not using it.

Mrs. Gila Martow: Right. I would just add to that that there are ways technology is fantastic and—

Mr. Lawrence Gold: It all exists.

Mrs. Gila Martow: It all exists, yes.

The Chair (Mr. Grant Crack): Well, thank you very much, and we thank you, Mr. Gold, for coming before our committee and sharing your insight with us.

Mr. Lawrence Gold: If anybody has any follow-up questions, I would be pleased to discuss them.

ONTARIO SAFETY LEAGUE

The Chair (Mr. Grant Crack): From the Ontario Safety League, we have Mr. Brian Patterson, who is the president and chief executive officer. Welcome, sir.

Mr. Brian Patterson: Thank you.

The Chair (Mr. Grant Crack): You have five minutes, sir.

Mr. Brian Patterson: It’s a pleasure to come and speak on what I think is a timely bill. It follows on what you’ve already heard: some stakeholder consultations that have been ongoing for the last 18 months to two years and some consultations go back to the 1960s.

From the Ontario Safety League’s perspective, public safety is number one. We have advocated for changes that have been significantly important to ongoing public safety.

I’d be remiss not to say how pleased we are, as all members of the Legislature were yesterday, on the passage of Bill 31. A complicated number of issues were brought together under one bill with all-party agreement and, while that bill was under consultation, the Ontario Safety League had an opportunity to explain it at some length to all the party leaders and a number of members. I know Mrs. McGarry has heard it at length, so she’ll be okay with the next three and a half minutes to close this out.

In a lot of cases, we wonder why the road is closed at all, and for how long. That issue has never really been effectively addressed, and I think this bill will allow that discussion to come into play.

What we do know is for every minute of delay, we have three additional minutes of—sorry?

The Chair (Mr. Grant Crack): Just pull back from your mike, please, for Hansard. I apologize.

Mr. Brian Patterson: Okay; no problem. So we have a 3-to-1 delay when we shut a road down, so a 15-minute closure will take 45 minutes for the roadway to return to its normal pace. A two- or three-hour closedown in the GTHA, as you can well imagine, is unbelievable.

Who benefits from these closures of the highway? It’s again a complicated question from which this incident management committee will benefit. At the moment, it’s not clear whether we’re gathering data for the benefit of

MTO engineering, or if that data is gathered in a different way now than it was prior, whether we're gathering it for the benefit of future road engineering or whether we're gathering it for the courts in the event that there is a hearing and trial. So who benefits is still open to question, and I think this bill will allow that to come into play.

What are reasonable timelines for closure? As Mr. Gagne mentioned, cars colliding is not unique to the province of Ontario. There are best and better practices around North America that will benefit, so I think we can look into those reasonable timelines, set some objectives and work toward them. We have some real concerns. Secondary collisions from people watching, from the congestion and from the road rage created are a huge problem.

The safety of first and related responders to the scene—I have to tell you, I've been on a crash scene where someone drove through five firefighters in full bunker gear as they thought there was an opening in the road for them to carry on. We have had incidents where all levels of responders have been badly injured or killed, whether they are police officers, firefighters, EMS members, tow industry responders or members of the public who may have gotten out of their car to help respond to someone who's been badly injured and found themselves worse off as a result of becoming a good Samaritan.

There was a question of cost earlier, and I would say I think the cost is unclear. The current model envisions some costs to be moved or absorbed. Right now the costs are unclear because excessive towing costs where the abuse and fraud have been identified are being paid for by every resident in this province. The cost of closing roads for that time frame that we talked about is being paid for by many manufacturers, and in some cases that's critical to small business. The cost of the Envision Control Centre and rotational process—there's a cost there.

I don't think we're looking at something that's going to be cost-free. What I think we are looking at is something that could generate best practices, improve public safety in the province, and rationalize those costs so that those who are paying and those who are receiving will know what they are.

I look forward to any of your comments. Thank you very much.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Patterson. We shall begin with Mrs. McGarry.

Mrs. Kathryn McGarry: Thank you so very much, Brian. It was a delight to have you here yesterday. I know the Ontario Safety League had a lot to do with writing and looking over Bill 31. I'm going to ask you a couple of questions. Maybe you could just identify exactly what portions of the bill you were most involved with, besides everything.

Mr. Brian Patterson: I think a lot of that bill, particularly the "move over" piece—although championed by CAA, we felt that was critical.

The issues around distracted driving and actually creating a real penalty for distracted driving were critical to us. I think that is a good example that public safety is an area that is non-political between parties and we can, when best able to do so, remove those issues.

On this process, with towing, we already have established a formal tow training program. We've worked very closely with a number of the towing industry with regard to new technology. Again, lots of good opportunities are there for everyone in this province.

Mrs. Kathryn McGarry: In ways of addressing highway management, what do you think the most effective way of communicating your suggestions to both ministries named in this bill would be? If not through a committee process, how would that be? Or if you did think a committee process is the best way, who would you have at the table?

Mr. Brian Patterson: I really think the committee process is the way to go. I think the government and all members of the Legislature want to see real stakeholders at the table who have—to use that term—skin in the game, who know what they're dealing with. I'm not sure you need a constable or a sergeant from one of the municipal police services speaking on behalf of all police. I think the commissioner of the OPP and the current president of the OACP will see this as important enough.

What they don't want to see is the unending piece of string, that we're now in meeting 72 of the process and we're not getting anywhere.

But I think with a one-year time frame, with the commitment of senior bureaucratic staff and a request from this organization to senior police leaders, they will be there. They'll give you good advice and you'll have practices that you can implement within a year of the meeting.

Mrs. Kathryn McGarry: The Faster Clearance Working Group had been struck, and we had done some good work. In your opinion, do you know why it failed? And how could we prevent a similar committee, if we strike it, from failing?

Mr. Brian Patterson: I think you really want to have, as I say, the senior leaders from the organizations, real stakeholders like the Ontario Safety League. We have no skin in the game. We don't own a tow truck and never towed a car—well, except my brother's. But I think we can put public safety number one, and as a result we'll get some of this clearance out of the way.

I think you need to have leaders at the table. That doesn't happen when you've got nine committee meetings to be scheduled over two years. It just doesn't get anywhere.

The Chair (Mr. Grant Crack): Thank you very much.

Mrs. Kathryn McGarry: Thank you.

The Chair (Mr. Grant Crack): I appreciate that. We shall move to the official opposition. Ms. Martow.

Mrs. Gila Martow: I just wanted to mention that people have been asking about cost. In my opinion, if we take into account the economy and people's time—as

somebody who's been in the medical field where people haven't made it to their surgeries and surgeries had to be cancelled, people have missed flights and important business meetings and, of course, damage to the roads. Whatever small cost it is to implement this kind of technology, that's kind of what I wanted to ask you about. Do you think that there is maybe even room that we could somehow have licensing fees and have those licensing fees go directly, instead of—right now, the licensing fees are going to municipalities, and it's a real patchwork—that we have a more centralized licensing system for tow trucks with this GPS type of technology, and those fees go directly to maintaining the technology? It doesn't necessarily have to cost the taxpayers.

1710

Mr. Brian Patterson: Yes, we've advocated the one issue, and we've got municipalities on board. The Ontario Safety League has offered to be that regulatory body so that the training, the regulation and the maintenance and the ongoing reporting qualification of the driver could be maintained in one database. Therefore, inter-municipality acceptance—I think that's likely to happen; not self-regulated, but jointly regulated.

I think there is a need to put the costs on the table so that they can be appropriately dealt with. I have heard too many times of the \$1-billion cost to the GTHA for road closures, and no opportunity to come to the table and help solve that.

Mrs. Gila Martow: Yes, you're reminding me that when that tractor-trailer flipped getting onto the 401 from the 400, or getting onto the 400 from the 401—I can't remember. But I'm sure you remember that that was major, and the highways were closed down for half a day. The cost, I recall, was half a billion dollars to the economy.

Mr. Brian Patterson: I think we need to just accept the fact that there are going to be some costs and there's going to be some benefit. I think the benefit is in public safety and coordination. If you bring the right level of leaders to the table, a committee struck under this bill will accomplish that.

Mrs. Gila Martow: I hope that we'll see actually the costs balancing out. It'll be cheaper to put this in than not put it in.

That's it for me. Thank you for coming.

Mr. Brian Patterson: Thank you.

The Chair (Mr. Grant Crack): Very good. Mr. Gates, from the third party.

Mr. Wayne Gates: Was it something I said, Brian?

Mr. Brian Patterson: Oh, sorry. I thought somebody was going to follow me. Sorry.

Mr. Wayne Gates: I wasn't sure. I didn't know. I hadn't started.

Mr. Brian Patterson: I need Mr. Marchese here to always say, "And how much money does the government give the Ontario Safety League?", and I can say, "Nothing." So there you go.

Mr. Wayne Gates: There you go. So I won't have to ask that question, then. I'm good.

I can tell you that we did, as a party, support Bill 31. But I will tell you that I spoke as the lead for an hour on Bill 31, and I laid out a number of amendments that I thought would have not hurt the bill at all and would have made the bill stronger. It got passed, but I still feel that the bill could have been a lot stronger for the safety of our roads. I just want to make sure I say that.

The other thing is that I think a lot of people don't understand or might not realize—and I think it was very important that you said it—is that we send our first responders out there, and they do it willingly. They go out, whether it's an accident or a fire or whatever it is. A lot of them do get killed. A lot of it is because we haven't provided the safety features around the accidents. If we're going to say to our first responders, "We need you to get out there," we've got to make sure we put systems in place that work for them so that they're doing their job and it can be done safely so they can go home to their families. So I'm really glad you raised that, because I think it's something that is forgotten about.

On your talk about bringing leaders to the table: We've been talking about this for 35 or 40 years. If we're going to do this and there's going to be a bill, there has to be a timeline to it. Whether it's six months or a year or whatever the makeup is, there has got to be an end game to it. The people that do have skin in the game—and I appreciate that you said you don't, but obviously you have a lot of expertise—I think it's important to say, "Okay, this is what we're going to do. This is what we'd like to accomplish, but we're going to accomplish it here." I think that's probably one of the most important things to establish. If they're going to do it, let's get it done.

The last one on the cost of benefits: a very interesting look at the cost of benefits. I don't think you can put a cost on public safety.

Mr. Brian Patterson: No; I agree.

Mr. Wayne Gates: I don't know what one person's life is worth, quite frankly, but I can tell you that in the province of Ontario, under a number of governments—I'm not taking a shot at any government here—we have not done a very good job around public safety. We've talked about it. We continue to talk about it. We haven't acted. Hopefully, maybe this committee will help us get to a position where, when I get on the road with my grandkids driving down the highway, I know the road is going to be safe. If I need first responders, I know that the mechanisms are going to be in place that it would get taken care of and not put anybody else's life at risk. That's what we're doing when we have an accident on the highway.

So I just wanted to make those points. If you want to say something to that, that's fine.

Mr. Brian Patterson: I'm looking forward to results or any negotiation that can take place. I think the current government and the current attitude between the three party leaders is such that road safety and public safety can be number one, and those who can be requested—I can tell you, a request from the Premier or the leader of

either of the parties to attend a consultation that has a scope, has a mandate, has a mission, will be successful. You will find chiefs of police and fire chiefs there, and you will find professionals ready to give of their time and energy to ensure that we have a safe result as the outcome.

Mr. Wayne Gates: I appreciate it.

The Chair (Mr. Grant Crack): Thank you very much. Mr. Patterson, I appreciate you coming before the committee this afternoon.

Mr. Brian Patterson: Thanks, Mr. Chair. Thanks very much.

The Chair (Mr. Grant Crack): You're quite welcome.

Just as a reminder to all members of the committee before we adjourn, we will be reconvening on September 14 for clause-by-clause consideration. I would like to remind all members that amendments will be due on September 8 at 12 noon.

I just want to make a point that, as your Chair, it has been a privilege for me to serve you over the last session. We nailed this committee meeting right on time, so feel free to congratulate me if you like. This meeting is adjourned.

The committee adjourned at 1716.

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First Session, 41st Parliament

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Official Report of Debates (Hansard)

Wednesday 16 September 2015

Journal des débats (Hansard)

Mercredi 16 septembre 2015

**Standing Committee on
General Government**

Organization

**Comité permanent des
affaires gouvernementales**

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 16 September 2015

Mercredi 16 septembre 2015

The committee met at 1601 in committee room 2.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mr. Grant Crack): I'd like to call this meeting to order. This is the Standing Committee on General Government. I'd like to welcome everyone back to the fall session. I trust that everyone had a great, productive summer representing your constituents in your riding.

This afternoon, we are here to deal with an organizational change, and I understand there may be a motion being put on the floor. Ms. Thompson?

Ms. Lisa M. Thompson: Thank you very much, Chair. I move that the following change be made to the

membership of the subcommittee on committee business: Mr. Yurek be replaced by Mr. Jim McDonell.

The Chair (Mr. Grant Crack): Thank you very much. Is there further discussion on the motion? Mr. Colle?

Mr. Mike Colle: Well, I think we should discuss it. No, I'm not—

Ms. Lisa M. Thompson: That would be fun.

The Chair (Mr. Grant Crack): Once again, any further discussion? Okay, those in favour of the motion? Any opposed? Motion is carried.

Is there any further business? Ms. Hoggarth?

Ms. Ann Hoggarth: I move that we adjourn.

The Chair (Mr. Grant Crack): There is a motion to adjourn. Those in favour? Motion to adjourn is carried.

The committee adjourned at 1603.

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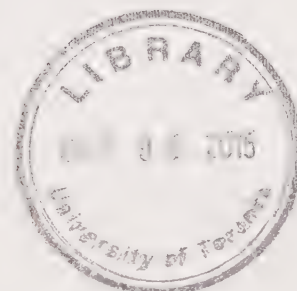
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Standing Committee on General Government

Great Lakes Protection Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015 sur la protection
des Grands Lacs



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Wednesday 23 September 2015

Mercredi 23 septembre 2015

The committee met at 1600 in committee room 2.

GREAT LAKES PROTECTION ACT, 2015

LOI DE 2015 SUR LA PROTECTION
DES GRANDS LACS

Consideration of the following bill:

Bill 66, An Act to protect and restore the Great Lakes-St. Lawrence River Basin / Projet de loi 66, Loi visant la protection et le rétablissement du bassin des Grands Lacs et du fleuve Saint-Laurent.

The Chair (Mr. Grant Crack): Good afternoon, everyone. It's 4 o'clock. I'd like to call the meeting of the Standing Committee on General Government to order. Today we're here to discuss and have public hearings with regard to Bill 66, An Act to protect and restore the Great Lakes-St. Lawrence River Basin. I'd like to welcome all members of the committee back to work, and also the members of the public who are here today and those who are making deputations.

We will be conducting business this afternoon on an order from the House. We will have presentations of up to five minutes, and also up to nine minutes of questioning. I would like members of the three parties to keep in mind that there will be a vote on the opposition day motion this afternoon; we anticipate it at closer to 6 o'clock, so I would ask everyone to be as efficient and effective in your questioning as possible.

REGISTERED NURSES'
ASSOCIATION OF ONTARIO

The Chair (Mr. Grant Crack): Having said that, I will ask that the first delegation come forward, from the Registered Nurses' Association of Ontario. We have, I believe, Kim Jarvi and Tim Lenartowych with us. Welcome, gentlemen.

Mr. Tim Lenartowych: Thank you very much, Mr. Chair. My name is Tim Lenartowych, and I'm the director of nursing and health policy with RNAO. I am being joined by Kim Jarvi, who is our senior economist. It's our pleasure to be here this afternoon to talk about Bill 66, the Great Lakes Protection Act. I just want to express our gratitude to the committee.

I would like Kim to go through RNAO's feedback, and I would be happy to answer questions as well.

Mr. Kim Jarvi: Hi. Let me say, first of all, that we do welcome Bill 66. It's an important step forward in the protection of a healthy environment in the Great Lakes-St. Lawrence Basin. Our focus is on health, so it's the health benefits of environmental protection that motivate us. In particular, we're interested in reducing toxics and other pollutants, and the bill offers that possibility, particularly in its current form, so we're very optimistic that this can go places where we want it to go.

I am going to jump straight to our discussion of the bill itself and leave any background reading which is in our report to the committee. First, what I'd like to look at is features we liked and things that we would like to change in the bill.

The bill itself has three major elements that I'm going to address here. One is that it articulates guiding principles. It's important that they're actually in the bill itself. Those principles include an ecosystem approach, a precautionary approach and government accountability.

Secondly, and very important for us, there's language addressing pollutants now in the bill. That includes the purpose: to protect human health and well-being through the elimination or reduction of harmful pollutants. It includes ensuring the monitoring and reporting of harmful pollutants, and more generally reporting on and monitoring ecological conditions. Finally, it allows for policy tools that could require the reduction of harmful pollutants. These are all very helpful, in our view.

Third, the bill mandates a Great Lakes Strategy and the associated monitoring and reporting. That, for us, is important from the point of view of delivering transparency and accountability. From the point of view of effectiveness, the feature of targets and the preparation of plans to meet those targets is also very important.

That leads me to our first area that we would like strengthened: those targets and planning. It's very important to have them, but for the most part they're not mandatory, except in the case of the reduction of algal blooms. It would be much more powerful if the target setting and planning were mandatory.

Our biggest concern, actually, is with the change in Bill 66 that would allow for exemptions of "any person or class of persons from any provision of this act or the regulations, subject to such conditions or restrictions as may be prescribed by the regulations."

That leads us to our three recommendations. Number one, we would strongly urge the government to remove

any provisions enabling discretionary exemptions from the Great Lakes Protection Act, and that includes the removal of paragraph 38(1)(l).

Our second area of recommendations is on toxics, targets and planning. We're trying here to inject a sense of urgency into the proceedings. It's a compound recommendation:

(a) Amend section 9(1) to make target setting mandatory. As it is right now, it's not mandatory.

(b) Amend section 9(5) to make planning to achieve those targets mandatory as well.

(c) We would like to bump up the timeline on the target that is mandatory for reduction of algal blooms in paragraph 9(2) from two years to one year. We believe that one year should be sufficient time to get this going—

The Chair (Mr. Grant Crack): Thank you very much.

Mr. Kim Jarvi: Oh, we're done. Okay.

The Chair (Mr. Grant Crack): My apologies. We're going to have to stay right on time today. Thank you very much for your presentation.

We will start with the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: I appreciate you being here today and sharing your deputation. When you considered your recommendations that you shared with us today, have you gone outside of your organization, just to pulse check to see what is already going on in terms of Great Lakes protection?

Mr. Kim Jarvi: Yes, we consulted with the Great Lakes Protection Act Alliance. We reviewed their submission and we've endorsed it. We actually mention that endorsement in the submission.

Ms. Lisa M. Thompson: Okay. Have you met with or had any correspondence or discussions with source water protection committees?

Mr. Kim Jarvi: No.

Ms. Lisa M. Thompson: Have you met, discussed or exchanged correspondence with any watershed organizations, to discuss the initiatives that they're involved in?

Mr. Kim Jarvi: With the exception of working through the GLPAA, no. Our interest is chiefly in pollutant reduction. That's our expertise.

Ms. Lisa M. Thompson: As is everyone's.

Have you discussed or shared any correspondence or tossed around ideas with organizations like the Ontario Federation of Agriculture?

Mr. Kim Jarvi: No.

Ms. Lisa M. Thompson: Interesting. Thank you.

The Chair (Mr. Grant Crack): Mr. Hatfield.

Mr. Percy Hatfield: Good afternoon. Kim, you were this close to finishing. Had you more time, what was it you were about to read into the record?

Mr. Kim Jarvi: Thank you very much for the opportunity. We would like to add a paragraph to make at least one pollution reduction target mandatory within the first year. We would add that we'd urge the government to make all of those targets ambitious.

Finally, we would like to add a reference to the principles of the Canadian Environmental Protection Act to the bill.

I want to thank you very much for that opportunity.

Mr. Percy Hatfield: Just following what Ms. Thompson had asked about other organizations you may or may not have consulted with, have you ever in the past or will you in the future be working with, say, conservation authorities when you come to speak, say, about algae blooms? They also have some serious concerns; maybe you could work together on that.

Mr. Kim Jarvi: I think we would be prepared to work with a broad range of groups. Again, our focus and expertise is in the area of toxics and pollutants.

Mr. Percy Hatfield: Have you, through the nurses' association, pointed any fingers at any group or organization that you feel is more to blame or more the cause of any algae blooms that we've seen in recent years?

Mr. Kim Jarvi: We haven't addressed that in our material.

Mr. Percy Hatfield: Do you see it as more of a holistic approach, then?

Mr. Kim Jarvi: It's an issue of nutrient loading, and so obviously it's something that I think that you'd have to work on with all stakeholders on the margins of the watershed.

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Mr. Percy Hatfield: Thank you. Thank you, Chair.

The Chair (Mr. Grant Crack): Thank you, Mr. Hatfield. We'll move to the government side. Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Mr. Jarvi, for being here today. As you said in the beginning of your presentation, Bill 66 is an important step forward. I really appreciate the work your organization has been doing for such a long time. You and your organization have been a strong advocate for increased environmental protections. We all understand that the Great Lakes are an essential part of our heritage and they are vital to the success of our province.

Being an economist, we also know that the Great Lakes' regional economy is the fourth largest in the world, and it contributes billions of dollars to our economy through agriculture, shipping, clean hydro power, fisheries and tourism, to name a few.

Mr. Kim Jarvi: Yes.

Mrs. Amrit Mangat: As we move forward, can you suggest how the government can involve your organization, the organization of nurses, and what value do you see for their involvement?

Mr. Kim Jarvi: Again, where our expertise lies is in the human health effects of the environment. So in any consultations when it involves pollutants and toxic control, that's where we would have the greatest value added.

Mr. Tim Lenartowych: And if I can add as well, just in follow-up to the feedback that we've provided in terms of advancing targets and providing at least one target within the first year, I think that would be a very great

opportunity for nurses to be able to provide feedback on what that target should be and how it can be measured.

Mrs. Amrit Mangat: So what you're trying to say is that the Great Lakes Strategy sets out Ontario's road map—right?—so regular review and reporting would be important.

Mr. Kim Jarvi: It's absolutely essential, yes. That's true of any major environmental initiative, but I think that's an important feature of the bill.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Grant Crack): Thank you, gentlemen, for coming forward and sharing your views. We appreciate that.

CANADIAN ASSOCIATION OF PHYSICIANS FOR THE ENVIRONMENT

The Chair (Mr. Grant Crack): Next on the agenda, from the Canadian Association of Physicians for the Environment, we have Kim Perrotta with us as the executive director. Welcome. You have five minutes.

Ms. Kim Perrotta: Thank you very much. First of all, I'd just like to introduce myself. I'm new in the position of executive director with CAPE. I've only been in the job two or three months now. But I've got a master's degree in health science, and I've been working on environmental health issues for 30 years for organizations such as Toronto Public Health, Halton Region Health Department and the Ontario Public Health Association. What you're going to hear from me today represents kind of a public health focus. What we'd like to do is paint a picture for you today.

CAPE, or the Canadian Association of Physicians for the Environment, is a non-profit organization. We have about 6,000 members across the country. We were established 22 years ago and we are run by a board that is composed primarily of medical doctors.

We would like to express our support for this bill today, and the reason we're doing that is because we believe it has opportunities to protect human health. I'd just like to kind of remind us—everybody in this room understands the importance of the Great Lakes. They are the source of drinking water for 10 million Ontario residents. They're a source of food for our tables. We use their waters for 25% of our agricultural production in the country. We use their water for washing our dishes, bathing and watering our gardens. We use the Great Lakes for recreation: for cottages and swimming and for fishing and boating. We use the water to support 75% of Canada's manufacturing sector, for generating electricity and as a receptacle of our waste water. So the Great Lakes are central to our health, our economy and our way of life in Ontario.

For us as health professionals, we try to look at all those different ways in which it's being used, and for us, this is why it's so important that the Great Lakes be properly managed, monitored and controlled, because we have a number of uses that are actually quite contradictory, if you think about it, such as putting your waste-

water in the same place that you're taking your drinking water from. They have to be managed carefully.

As an organization run by health professionals, we look at environmental issues through the lens of health. When we look at this proposed act, we think of the different ways in which watershed management is important to the health of residents. We think about how dependent we are upon a reliable source of clean and safe water. We think about the ways in which human health can be adversely impacted by the chemical and biological agents in our water systems.

I'd just like to give a few examples, and then I've completed.

As Walkerton reminded us, water supplies can be contaminated, with deadly consequences, by livestock manure under the wrong circumstances. In Walkerton, it was the combination of a poorly managed water supply, livestock manure surrounding the wellhead, and an exceptionally hard downpour that created tragic outcomes.

We know that blue-green algae blooms that can develop in water systems that are overwhelmed by nutrients such as phosphorus are toxic to humans. We know that people can be exposed to the toxins associated with these microscopic organisms by drinking the water, by bathing in it and by swimming in it.

We know that there are many households and communities in Ontario that are dependent upon well water for their drinking water. It's not uncommon to hear about households that must truck in their water because their artesian wells have been drawn dry by golf courses, quarries or other heavy users of water.

We also continue to be concerned about the toxic substances that can enter the watershed as emissions from industrial processes, such as something like chromium; commercial operations, which could include things like dry-cleaning fluids, gasoline or mercury from dental offices; waste water—that can be things like pharmaceuticals that go down into the sewage system, or microbeads; and also residential uses of consumer products, such as flame retardants that are used on many of our electronic devices.

Some of these substances present harm to people when ingested as drinking water. Others present a concern to human health by disrupting the ecosystems upon which we are dependent. Neonics pesticides are a good example of that. By disrupting pollinators, it disrupts our food supply and our ability to provide food for ourselves. Others still present harm to humans by accumulating in the food chain when they're consumed by people, and mercury is the best example. It gets into the food chain and then people are harmed, and it causes brain damage to children who are exposed prenatally or early in life.

With all of these water-related health concerns in mind, we'd like to express our support for the proposed Great Lakes Protection Act. We understand that this act provides legal tools that can be used to monitor, manage and control the watershed issues that may not be adequately addressed with existing legislation. With this in mind, we'd like to endorse the September 2015 sub-

mission that was prepared by the Great Lakes Protection Act Alliance.

I'm not a lawyer, but I will say that my experience working in public health for 30 years tells me that often environmental health problems fall between categories. You can't usually solve a problem with just one piece of legislation. You often need to look at it from many different angles because often the sources of pollutants that are entering something like the Great Lakes are coming from many different places.

That's it.

The Chair (Mr. Grant Crack): Well done. Thank you very much. We'll start with the third party. Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Chair. Welcome. If I can take you back to something you said in item number 4, "disrupting the ecosystems upon which we are dependent, for example, neonic pesticides," are you of the opinion that neonics have no purpose or use in today's Ontario?

Ms. Kim Perrotta: I imagine that when they were introduced, there was considered to be a use. I think there are some studies around that suggest that they aren't needed as often as they are used. I'm not saying that they're not ever needed, but I think they're probably often used in situations when they aren't needed.

Mr. Percy Hatfield: Have you ever talked, for example, to the Ontario Federation of Agriculture?

Ms. Kim Perrotta: I have not, although I have read submissions by them.

Mr. Percy Hatfield: You also talked about golf courses that draw dry the artesian wells. If the wells are dry now, where do the golf courses continue to get their water from?

Ms. Kim Perrotta: I don't know. Honestly, I worked for Halton region for three and a half years, and it's a major concern. The communities are actually getting water trucked in and they talk about the water supply—this isn't to point fingers at golf courses as much as saying we need to control these sources very carefully. Right now, it doesn't appear that we have all the tools in place that we need to do that adequately.

Mr. Percy Hatfield: Are you aware of how much of our drinking water is taken from Ontario's lakes and streams and rivers and used by the water industry to put in plastic bottles to sell back to us?

Ms. Kim Perrotta: I'm afraid I'm not. I mean, I know it's a lot, but I'm afraid I have not looked at the numbers.

Mr. Percy Hatfield: Whatever the numbers are, would you agree, whatever it is, that the industry should be paying a fair share of the cost of whatever it is, the cost of administering that process?

Ms. Kim Perrotta: I think that's very fair, sure.

Mr. Percy Hatfield: Would you be surprised to know that they're not paying anything close to a fair share of this one?

Ms. Kim Perrotta: As a taxpayer, I'd be very upset.

Mr. Percy Hatfield: You mentioned Walkerton, but you don't have human error or poor training down.

Ms. Kim Perrotta: Well, I actually do say by a "combination of a poorly managed water system." I was kind of hinting there that I know there was human error involved and it was a poorly managed system that caused the problem, but it was also these other factors that contributed to it.

Mr. Percy Hatfield: You talk about artesian wells. Have you taken a position on fracking in Ontario?

Ms. Kim Perrotta: I have not. I think our organization may have taken a position at one point on fracking, but I'm afraid I'm not familiar with it.

Mr. Percy Hatfield: Thank you.

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The Chair (Mr. Grant Crack): Thank you very much. We shall move to the government. Ms. Kiwala.

Ms. Sophie Kiwala: Thank you very much for coming today. I have to say that I'm very impressed with the wealth of experience that you've come from. Congratulations on the new position.

Ms. Kim Perrotta: Thank you.

Ms. Sophie Kiwala: You've walked into an interesting first stab at the legislative process, and I appreciate your coming here today armed with the knowledge that you have behind you, so I thank you for that.

A couple of general questions for you. Would you say, then, that the physicians for the environment, the CAPE group, is generally positive and supportive of this legislation?

Ms. Kim Perrotta: Oh, absolutely, yes. We've heard the small revisions that are being suggested by the alliance, and we support that. Because we are not lawyers ourselves, we support those. But overall, we think this is an important piece of legislation that will help us to identify and address the gaps.

Ms. Sophie Kiwala: Okay. Also, with respect to going forward, how would you say that the province can best involve physicians, and health care practitioners as well, in the process of consultation?

Ms. Kim Perrotta: That's a very good question. I'm not quite sure how you can do that. I know sometimes the boards of health in Ontario can be a very good place to do that. The boards of health often have consultation processes that invite doctors from the neighbourhoods into the process, so it might be through that. Certainly CAPE would be happy to be involved, but we are an organization with limited resources.

Ms. Sophie Kiwala: So if you were to suggest other avenues that we could explore, other stakeholders that would be involved—from somebody who's got 30 years' experience in public health, I'm really interested in finding out your views on how we can best collaborate with all of the stakeholders going forward.

Ms. Kim Perrotta: I think having multidisciplinary committees is very helpful, and if you're doing it geographically, then you do that geographically. I want to just say that the public health sector is a very important sector to involve because they get involved in all these issues from a public health perspective. So I think it's

useful to involve them and ensure that you've got people like that.

If physicians from neighbourhoods can be brought into the process, that's great. Once again, they've got limited time and resources for sitting on committees, but certainly if there are consultation processes on a geographic basis, some of them would come forward.

Ms. Sophie Kiwala: Okay. So you're supportive of an ongoing commitment as well in the future?

Ms. Kim Perrotta: Oh, yes.

Ms. Sophie Kiwala: This needs to be something that's monitored regularly?

Ms. Kim Perrotta: Yes. I want to just say that when you look at the water quality reports, we've made a lot of progress in Ontario. When I look at the issues that were around when I started this work 30 years ago, we've brought PCBs way down; we've brought DDT way down. We've made a lot of progress, which, to me, speaks to the fact that policy works and that these kinds of processes work. But I think we have new challenges and that climate change is also exacerbating some of those problems by reducing water levels and that kind of thing.

The Chair (Mr. Grant Crack): Okay. Thank you very much. We appreciate it. We'll move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Thank you very much. Thank you for being here.

I found the stats in the second paragraph of your submission interesting, particularly "We use [the Great Lakes] waters for 25% of Canada's agricultural production." Can you tell me where you got that stat?

Ms. Kim Perrotta: I thought I got it out of your document. I thought I got it out of the—I'm sorry. I think I got it from the Great Lakes document itself, but perhaps I'm wrong about that.

Ms. Lisa M. Thompson: I think we need to revisit that. Perhaps there are some other deputations that will happen later that might help to clarify that.

Ms. Kim Perrotta: Okay. I'd be happy to get the reference to you, to follow up, and I apologize that it's not there.

Ms. Lisa M. Thompson: Thank you. I appreciate that.

I found interesting your comment around how it's important to have a multidisciplinary perspective on things. You mention that you're prepared to endorse the Great Lakes Protection Act Alliance, but I'm wondering, just like the previous deputation: In preparing your thoughts and preparing your board for this particular piece of legislation, did you take care to reach out to other organizations, like source water protection committees, people responsible for protecting watersheds, the Ontario Federation of Agriculture, to get that true multidisciplinary perspective?

Ms. Kim Perrotta: I think that would be the role of the committees that are set up under this legislation. I'm afraid we don't have the resources to do that kind of consultation. I can say to you, though, that I've worked at a public health department that reviewed water quality in

an ongoing way when they were reviewing site plans and planning applications at the regional level. So I am aware of some of these things from hearing them first-hand.

Ms. Lisa M. Thompson: And what, in your perspective, is the number one issue in terms of Great Lakes protection?

Ms. Kim Perrotta: I think that there are many different issues. I guess for me, I would say that we want to ensure that we have safe and reliable water supplies.

Ms. Lisa M. Thompson: Okay. Very good. Let me see. In that spirit of safe water supplies, do you feel that what's proposed in Bill 66 in terms of one overarching guardian council is adequate? Again, in the spirit of your comment—you mentioned the importance of having a multidisciplinary committee on a geographic basis. Given the importance of safe water, do you feel that it's adequate to have one overarching committee, or should we have the system broken down and have a committee per lake, so that we can capture that geographic importance that you alluded to?

Ms. Kim Perrotta: I guess—

The Chair (Mr. Grant Crack): Five seconds. Go ahead.

Ms. Kim Perrotta: Thank you. I guess I would just say that I think for the geographically—there's the element that requires geographic-based projects, and I think you should have local people involved in those. I think it is useful to have an overarching committee that's multidisciplinary as well.

Ms. Lisa M. Thompson: Very good. And you'll get us that information?

Ms. Kim Perrotta: I will.

The Chair (Mr. Grant Crack): Thank you very much. Mr. Hatfield, from the third party.

Interjections.

The Chair (Mr. Grant Crack): What? That's it? Okay, that's it, I guess. I apologize. You started.

Ms. Kim Perrotta: Am I done? Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate your presentation.

ONTARIO FEDERATION OF AGRICULTURE

The Chair (Mr. Grant Crack): We shall move to the Ontario Federation of Agriculture. We have Mr. Don McCabe with us—he is the president—and we have David Armitage, director of regulatory modernization.

Welcome, gentlemen. You have five minutes.

Mr. Don McCabe: Thank you, Mr. Chairman. I usually can't clear my throat in that period of time, but if I hit auctioneer speed, slow me down.

I do thank you for the opportunity for the federation to be here today. We would like to bring our comments on Bill 66 in the form of 16 recommendations to this committee. You will find details around these recommendations in the submission that is being left with the committee for further discussion. Four areas in which these recommendations will be covered off are defin-

itions, geographically focused initiatives, the Great Lakes Guardians' Council, and "other."

Under the area of definitions, the OFA recommends that the expression "ecological health" be defined in section 3 of Bill 66. As of right now, it is not.

The second recommendation is that the definition of "public body" in section 3 of Bill 66 be revised to indicate that only a municipality is eligible to be a public body. When developing a GFI, a municipality must be required to consult with stakeholders. GFI is our short form for geographically focused initiatives.

Number 3: The OFA recommends that the term "ecosystem approach" recognize that humans are an integral part of the Great Lakes-St. Lawrence River Basin ecosystem.

Number 4: The term "precautionary approach" needs to be carefully defined in order to avoid situations where a lack of full scientific certainty with regard to environmental impact is used as a rationale for imposing unreasonable land use restrictions. The reality is that full scientific certainty may not always be achievable.

Finally, the term "adaptive management approach" should embody the principle of continuous improvement. It should reference a systematic process for monitoring and evaluating effectiveness of all actions taken to mitigate water quality and other environmental concerns.

Under the second area, that of geographically focused initiatives, the OFA would recommend that clause 15(2)(a) be revised by omitting the words "in the opinion of the public body or public bodies."

Number 7: The OFA concurs with the need for an initiative to be subject to a cost-benefit analysis. The OFA strongly recommends that the cost-benefit analysis be a part of the proposal phase and a criterion upon which the minister determines the proposal's merit. The cost-benefit analysis should relate to the impact of the geographically focused initiative on stakeholders, not the administrative body responsible for its implementation.

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Under the area of the Great Lakes Guardians' Council, the OFA recommends that the guardians' council be comprised of members appointed for a period of five years who are invited to each meeting of the council.

Number 9: OFA strongly recommends that the five Great Lakes councils be established to ensure that those providing advice to the minister are truly knowledgeable about local drainage basin issues. An agricultural representative must be appointed to each of the five councils.

Number 10: OFA recommends the establishment of the five councils, but if the decision is to proceed with only one, then it should be populated with five agricultural representatives to make sure you've got the representation of agriculture that is necessary to bring the information forward.

In our final area, "other," the OFA recommends that OMAFRA be added to section 9 of Bill 66 in the same manner as the Ministry of Natural Resources and Forestry. This would ensure complete coverage of the province by the resource ministries involved.

Number 12: OFA recommends that the authority to enter property with neither the consent of the owner nor a warrant be limited to exigent circumstances only. Issues of biosecurity or other matters are of grave importance to the agricultural industry. Take a look at the recent avian flu incident that impacted this province.

Number 13: OFA recommends that offences and penalties relating to a GFI should be determined by the municipalities in which the GFI is operational.

Number 14: OFA recommends that the government of Ontario abide by its own Ontario regulatory policy and refrain from positions that suggest the most restrictive regulation is the most appropriate regulation.

Before I give the next recommendation, I would like to point out a quote that comes from subsection 34(6). The specific language reads: "Nothing done or not done in accordance with this act or the regulations constitutes an expropriation or injurious affection for the purposes of the Expropriations Act or otherwise at law."

To that effect, the OFA recommends that subsection 34(6) be deleted from Bill 66 as a means of expressing the government of Ontario's commitment to responsible government.

Finally, the OFA recommends that schedule 1 of Bill 66 be revised to give legal effect to a policy protecting classes 1 through 4 of agricultural land from conversion to natural habitat from productive farmland. Productive farmland gives you the result of your best economic driver in this province, and is a habitat in its own right.

Thank you for the opportunity to appear.

The Chair (Mr. Grant Crack): Thank you very much, sir. We shall start with the government side. Mr. Dickson.

Mr. Joe Dickson: Thank you very much, Don. Ironically, I just got off a plane late last night from going to Ireland to research my families who came over here in the 1846 famine, and all of them became farmers. My wife's family is all farmers. It was an experience, and we're in touch on a regular basis because family is family. So I appreciate what you're saying and I know where you're coming from, I think. You're the professional, so we welcome your input. I'm glad you brought that forward today. I just have a couple of questions.

I should tell you that I called the Minister of the Environment and Climate Change twice in the last three weeks. In both occasions, believe it or not—I think you will believe me—I found him in the middle of a farmer's field, each time in a different location in Ontario where he was reviewing some legislation with farmers and getting input from them. It's quite an eye-opener, and it's all related to the Papal encyclical.

The farmers have always been known as important stewards of the land. My first chair on regional council in the 1980s was a gentleman by the name of Gary Herrema up in the Uxbridge area. There are big farmers still in that area.

I'm curious for your input on how the province can best involve the agriculture community in the implementation of the proposed Great Lakes Protection Act, should

it move forward. I'm interested in any further comments you might have on that. We're looking for your input, sir.

Mr. Don McCabe: Thank you, sir, and I too believe there's some Irish heritage behind "McCabe," so it allows me to be totally stubborn on issues of great importance.

The reality is that to move this particular act forward and have agricultural input, we need to remember that a systems approach has to be brought to agriculture, because there is only one landscape and one farmer that has to be able to manage that. We're the only ones, along with foresters, who are going to put carbon back in the ground, while dealing with phosphorus out of the Great Lakes, while increasing your biodiversity, all while we're "out standing in our field," in more ways than one.

Bottom line: Make sure we're involved; make sure we're involved in your advisory. The OFA has done numerous documents on best management practices. By the same token, always remember there is only one person who wins in agriculture, and that's Mother Nature. I hope I get an opportunity to take her on one more time this fall.

The Chair (Mr. Grant Crack): Thank you very much. Thank you, Mr. Dickson.

Mr. Joe Dickson: Am I finished, Mr. Chair?

The Chair (Mr. Grant Crack): Yes. I know you wanted two questions, but you only gave the opportunity for one.

Mr. Joe Dickson: It's better I listen.

The Chair (Mr. Grant Crack): Thank you. Good point.

To the official opposition. Mr. Barrett.

Mr. Toby Barrett: Thank you, Don and David. A brief question, and my colleague has a question as well.

You list about nine pieces of legislation that cover a lot of what this new proposed legislation would do with respect to our Great Lakes, on the Ontario side anyway. Of course, there's the International Joint Commission and issues dealing with farmers up the Maumee River and Ohio and up through Indiana; there's some pretty serious cash crop country up that way.

With this new legislation, as with a number of these other pieces of legislation, they always seem to include a law that allows warrantless entry onto property. Do you feel that's necessary with legislation that seems to focus on maybe creating guardian councils? Do we really need warrantless entry in this environmental legislation?

Mr. Don McCabe: No.

Mr. Toby Barrett: Okay. I'll pass this over to Lisa.

Ms. Lisa M. Thompson: Very good. Thanks very much, gentlemen, for being here today.

A lot of your submission, you've focused on the GFIs. One of our concerns with Bill 66, as with other reiterations of this initiative, was, where's the money coming from? Ontario is broke. I'm sure you've bantered this around quite a lot. Where do you feel the Liberal government of today will find money to enable geographically focused initiatives?

Mr. Don McCabe: It's not my place to tell the Minister of Finance where to find his money, but if people are planning incorrectly, they are going to find their plans fail. I would offer that there's a direct opportunity here for the governments of Ontario and Canada to both take a hard look at the issues of opportunities that are being done in other regions of the globe. I'm in a world of global competitiveness, so whether it's carbon trading, phosphorus trading, or bobolink trading, for that matter, let's get at it. That will bring in opportunities to allow a market-based solution, to offer great opportunity to extend a very limited tax dollar.

Ms. Lisa M. Thompson: Interesting, and I followed your path there, Don. Thank you very much. But I have to tell you—and you might be familiar with it—we have a very successful watershed just a few miles away from where I live: the Pine River watershed. They're worried that they are going to be stripped of funding to propel forward something that's really not needed because of all the good work that already is happening. How do you respond to something like that?

Mr. Don McCabe: This comes back to the issue of consultation, because, bottom line, if we have programs that are already working, there is no reason for reinventing wheels. We're finding that certain conservation authorities are a wonderful, helpful unit to advise on putting in berms and whatever else. Farmers will automatically take that up when they have times of profitability in order to meet the issue of sustainability, which has planet and people also involved.

Ms. Lisa M. Thompson: Thank you.

The Chair (Mr. Grant Crack): Thank you very much; we appreciate it. We shall move to Mr. Hatfield.

Mr. Percy Hatfield: We all know Don McCabe is a farmer from the Lambton area. Are you the same Don McCabe who's the vice-chair of the Bioindustrial Innovation centre?

Mr. Don McCabe: I'm pretty sure that's on a milk carton someplace.

Mr. Percy Hatfield: And are you the same Don McCabe who is a member of the Thames-Sydenham and area source water protection committee?

Mr. Don McCabe: That might be Fridays.

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Mr. Percy Hatfield: And are you the same Don McCabe who's a leading advocate on environmental farm stewardship in the areas of air, water, biodiversity and climate change?

Mr. Don McCabe: I would gladly accept your opinion.

Mr. Percy Hatfield: And are you the same Don McCabe with a chemistry degree from the University of Western Ontario?

Mr. Don McCabe: That was a long time ago, but I still remember the headaches.

Mr. Percy Hatfield: And you're the same Don McCabe with a doctorate-level education in soil genesis and classification from the University of Guelph?

Mr. Don McCabe: To be clear, I've studied at that level, but due to personal reasons, I still have a defence to do, and I'm planning it around my 99th birthday.

Mr. Percy Hatfield: I only asked those questions, Chair, to establish the credentials of the president of the Ontario Federation of Agriculture. We hear from various groups. Sometimes credentials mean something to some people. I just want to point out that we have a very distinguished, educated man in front of us.

Don, I guess my question is: A lot of people blame the farmers for the nutrient levels going into the Great Lakes. I take it you don't agree with the people who are pointing fingers in your direction.

Mr. Don McCabe: No sarcasm is intended here. Those same people who wish to point fingers at agriculture need to remember three things: (1) There are three fingers pointing back at them and they'd better look at their own sewage system; (2) I buy at retail, I sell at wholesale, I pay the trucking both ways, and I use soil testing and every method possible to ensure those nutrients are where they are—we're now taking on a voluntary 4R program to further expand that opportunity; and (3) Please go home and make sure you're not over-fertilizing your lawn.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that. I believe that concludes the presentation. We thank you both, gentlemen, for coming before committee this afternoon.

Mr. Don McCabe: Thank you.

SIERRA CLUB CANADA FOUNDATION

The Chair (Mr. Grant Crack): We shall move to the Sierra Club Canada Foundation. I believe we have the chair with us, and I welcome you. You have five minutes.

Ms. Mary Muter: Thank you for offering this opportunity to us, Chair Crack and members of the committee. We are here to comment on the proposed Great Lakes Protection Act. This act has the potential to benefit the Great Lakes' complex aquatic ecosystems. Ontario has about 50% of the Great Lakes shorelines, including the 30,000 islands on Georgian Bay. But unless this act has some teeth and support funding, it will accomplish little. The cabinet exemption clause, section 38(1), needs to be removed if this act is to have the integrity that it requires.

This legislation, if enacted, provides an opportunity to protect wetlands from impairment or destruction. The current "no net loss" wetland language will not do that. Wetlands are the most important ecological element of freshwater ecosystems. They filter and clean the water, including removing toxics. They provide essential fish spawning and nursery habitat. We know that approximately 70% of coastal wetlands on Lakes Ontario and Erie have been destroyed due to contamination or development encroachment.

Our Great Lakes project has been partnering with McMaster University's Dr. Pat Chow-Fraser's Great Lakes freshwater research lab since 2003. Their assess-

ment includes water quality, wetland health, the fishery, and fish habitat. We have assisted their team of researchers to get out to difficult-to-access wetlands and, for instance, with special Ministry of Natural Resources permits, they set out nets overnight and then the next day identify and live-release all the aquatic life captured—mainly fish but also turtles and occasionally snakes. They also do wetland plants and water quality assessments.

McMaster University's work has identified that the highest-quality, most extensive and diverse—but also the most sensitive—wetlands found anywhere in the Great Lakes, including the US side, are found on the east and north coasts of Georgian Bay. These wetlands have established over thousands of years on glacial till sediments scattered in among the Precambrian 30,000 islands. But these wetlands are in most cases unable to migrate since there is often adjacent exposed rocky shoreline.

As a result of our significant work with McMaster University's Dr. Pat Chow-Fraser, we have some very serious concerns regarding the language in this act on wetland protection. In part IV, Targets, we find the following language:

"(3) The Minister of Natural Resources and Forestry may, after consulting with the other Great Lakes ministers, establish one or more qualitative or quantitative targets in respect of preventing the net loss of wetlands in all or part of the Great Lakes-St. Lawrence River basin."

Unless one is aware of what this really means, it sounds good. The reality is, though, that this proposed legislation allows any Great Lakes shoreline property owner, developer, golf course or mining company to create, or pay to have created, a new wetland that one might call an artificial wetland, to compensate for destroying a natural coastal wetland. The purpose would be to satisfy some development or docking convenience needs.

In reality, no Great Lakes coastal wetland will ever, even under the best of conditions, match the diverse ecological values of a glacial till sediment coastal wetland that has developed over thousands of years. Further, any exposed created coastal wetland risks being eroded out by wave action before wetland plants can become established.

Just to give you an example, between 1999 and 2001, Michigan-Huron-Georgian Bay water levels fell four to five feet. In 2002-03, we were observing significant dredging operations taking place at marinas around Georgian Bay. That dredge material was put into trucks, taken away and put into wetlands that used to be hydrologically connected to the lake, but they were filled in. Now McMaster University, using their Transport Canada-approved drone, have noted that some of those areas now have tennis courts on them.

I also saw some of that material being deposited along rocky shorelines to compensate for filling in wetland areas, but the first storm washes that away.

Another method of so-called "preventing the net loss" is to build a dam or dike and pump water up into a

created wetland. Again, McMaster researchers have found little long-term benefit for diked wetlands. Wye Marsh is a diked wetland near Midland, Ontario, that now has mainly dense cattail reed populations and very little open water for fish habitat. That wetland was diked in the early 1970s, and now the Wye Marsh Wildlife Centre is struggling with the resulting management challenges.

The Chair (Mr. Grant Crack): Thank you very much. I apologize. I don't want to appear to be heavy-handed. Maybe I do appear to be heavy-handed, but we have to stay on schedule.

Mr. Hatfield.

Mr. Percy Hatfield: Thank you for being here, and thank you for all the work that you do. Would you like to take the rest of our time and finish what you were about to say?

Ms. Mary Muter: I just want to say: Let us not repeat mistakes. The language in this act should simply say that no coastal wetland 0.5 acre in size or greater can be destroyed or disturbed in any way.

We need to now put in place policies to prevent any further loss of Great Lakes coastal wetland habitat. That includes not allowing wetlands to be created in vain attempts to compensate for destroying natural wetlands. Simply remove the word "net" in "Targets," section 3, and apply it to wetlands that are 0.5 acre or greater in size, and you will provide the teeth needed to prevent further destruction of Great Lakes coastal wetlands. Thank you.

Mr. Percy Hatfield: Thank you. Now tell the committee, in your own words, what they should do with this bill.

Ms. Mary Muter: With this bill? I just said it. Under "Targets," section 3, remove the word "net."

Mr. Percy Hatfield: And that's your big ask?

Ms. Mary Muter: That's the big ask; absolutely.

Mr. Percy Hatfield: Thank you. Thank you, Chair.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the government side: Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you for your presentation. As a former elementary school teacher who took her classes to wetlands every year—because the children don't get a chance to go very often, and there are not enough of them left—I appreciate your presentation.

You have asked for the deletion of the provision allowing for exemptions. You've also asked that there be target commitments in regard to the wetland targets and the mandatory action plans. Correct?

Ms. Mary Muter: Yes.

Ms. Ann Hoggarth: Okay. I wonder if you think that this bill, on the whole, is a positive step towards protecting the Great Lakes and the people of Ontario.

Ms. Mary Muter: It's a positive step, as long as it has teeth and it has funding to support it.

Ms. Ann Hoggarth: Thank you.

The Chair (Mr. Grant Crack): Okay, thank you very much. Follow-up question: Ms. Mangat.

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Mrs. Amrit Mangat: Thank you for your presentation today. I know that your organization has championed the need for increased environmental protections. Can you tell us how targets and tracking performance are important?

Ms. Mary Muter: Obviously, if we've lost 70% of the Great Lakes wetlands on Lake Erie and Lake Ontario, we need to protect and preserve what good wetlands we have left.

There are a lot of people, the general public, that just call them swamps and bogs, and they don't understand their ecological value. There is education involved here, so that people can understand that dredging, digging them out or removing them is not a good idea.

There needs to be education, and then there needs to be teeth to prevent that from happening.

Mrs. Amrit Mangat: How could the province work with Sierra Club?

Ms. Mary Muter: Work with Sierra Club?

Mrs. Amrit Mangat: Yes.

Ms. Mary Muter: We'd be happy to help, and with McMaster University—they've been doing a lot of mapping. They've been working with the Great Lakes Coastal Wetlands Consortium, which was started by the US EPA, to map all of the wetlands and then give that information to the government agencies, give it to the local municipalities, so they all have it. So when an applicant comes in and wants to do something, they can say, "Oh, oopsy daisy, there's a wetland here. You cannot disturb that wetland."

The Chair (Mr. Grant Crack): Okay. Thank you very much. We appreciate it.

Ms. Thompson, from the opposition.

Ms. Lisa M. Thompson: Thanks for being here. A question that I have out of the gate is, how many organizations, traditional and non-traditional, do you find the Sierra Club that you belong to interacts with?

Ms. Mary Muter: For one thing, on the binational coordinating committee for all of the Sierra Club chapters, nine of them around the Great Lakes—we collaborate on Great Lakes issues that way. We are part of the Great Lakes Protection Act Alliance. We collaborate with smaller groups when we're working in a specific area, like the Federation of Tiny Township Shoreline Associations on the south shores of Georgian Bay.

Ms. Lisa M. Thompson: Are you familiar with Ducks Unlimited?

Ms. Mary Muter: Yes.

Ms. Lisa M. Thompson: Are you familiar with the mapping and the extensive work that they've done to capture every wetland in Ontario?

Ms. Mary Muter: I'm somewhat familiar with it, yes.

Ms. Lisa M. Thompson: Because I'm concerned that there's such an overlap of Bill 66 on existing legislation. I'm hearing a little bit of overlap, as well, in terms of initiatives to map out our wetlands and our bogs and our swamps, per se. I think it's important—huge message—as we work through Bill 66 that we need to strip down

silos; if we truly care about the environment, that we start working with every organization that has spent so much time, and step away from all the redundant or specific-agenda-seeking initiatives.

How do you feel when you hear that?

Ms. Mary Muter: I agree with it; however, I am familiar that Ducks Unlimited mapping generally shows where there is water, but where there is water does not necessarily mean that there is fish habitat. Right now, they don't have the expertise to do fish habitat assessment. When you're talking about Great Lakes coastal wetlands, that's a very important function that you need to keep in mind.

Ms. Lisa M. Thompson: With that said, they were here just last year, back in the spring. They have a beautiful software system where they map out every defined wetland. It's an interesting initiative that certainly stands out in my mind as an example of how all of our organizations that care about the environment could potentially be working better together.

Ms. Mary Muter: Yes. I wish there was time for you to see some of the mapping that McMaster has created with high-resolution satellite imagery and using drone images.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Muter, for coming before committee. We appreciate your comments.

LAKE ONTARIO WATERKEEPER

The Chair (Mr. Grant Crack): We have, from the Lake Ontario Waterkeeper, Mark Mattson, who is waterkeeper and president. We welcome you, sir. You have five minutes.

Mr. Mark Mattson: Thank you very much, Mr. Chair. I'm Mark Mattson, and I have been an environmental lawyer for the past 20 years. I am also president and waterkeeper for Lake Ontario Waterkeeper, which is a charity working for swimmable, drinkable and fishable water in Lake Ontario. I'm also a member of the Great Lakes Water Quality Board for the IJC, and I'm a resident of Wolfe Island, a farming, fishing and hunting community on Lake Ontario.

Lake Ontario Waterkeeper's programs bring together law, science, culture and digital media in order to connect and empower people to restore polluted places, protect human health, and promote thriving natural spaces. Through our swim guide, we connect more than half a million beach lovers to their closest swimming holes, and through our new Watermark Project, we'll help individuals document their personal water stories, and I hope you'll contribute someday.

I'm here—I think this is the third time—to support this important Great Lakes Protection Act. I've spoken about it in the past and I'm sure it's on the record. Things that we've talked about in the past are that the Great Lakes have a need for leadership from Ontario. Ontario is the largest jurisdiction on the Great Lakes with the most power over the eight states and two countries.

This act can empower Ontario to do more on the Great Lakes and it does provide Ontario with that opportunity to show leadership, which is so sadly needed on the Great Lakes.

I want to repeat some advice I gave the Minister of the Environment in the early days of the legislation's development. The Great Lakes Protection Act should not be seen as environmental legislation. It is as much an economic bill, an industry bill, and a culture and tourism bill as it is an environmental bill. This is legislation that helps to ensure Ontario can prosper in the future. You should not pass the act just because environmentalists support it. You pass the act because it is the smartest investment in the province's future that a government can make.

I mentioned that my organization works for a lake where everyone can safely swim, drink and fish, so obviously it pleases me to see those same goals enshrined in the legislation. We're also happy to see that progress reports are mandatory in the new version of the bill.

We recommend further strengthening the bill with a few modest adjustments. The recommendations are extrapolated and spelled out in more detail in our submission, but I'll just briefly mention them:

- guaranteeing public consultation when the strategy is revised;

- ensuring the public has access to all proposals for initiatives, including those that the cabinet does not approve; and

- removal of section 31, which gives the minister unilateral authority to skirt deadlines.

This last point is especially important for the progress reports, for which there should be mandatory reporting with no loophole.

Swim, drink, fish isn't my mission because I like to swim or fish, though I do. It is my mission because my time as an environmental lawyer has taught me this: No community can prosper when its waters are too polluted to touch, when its drinking water supply is not secure or when its wildlife cannot survive. Without clean water, economies falter, human health suffers and our social fabric is weakened. Only when your waters are swimmable, drinkable and fishable can your community prosper.

When I say I work for swimmable, drinkable, fishable water, I mean that I work to protect the very future of our community, my community, that I value. Protecting water is not society's only goal, but it is the most important place to start. To protect these Great Lakes is to protect ourselves.

I thank you very much for bringing forward this important piece of legislation.

The Chair (Mr. Grant Crack): Thank you very much, sir, and we shall start with the government. Ms. Kiwala.

Ms. Sophie Kiwala: Thank you very much, Matt, for your presentation today—I'm sorry, Mark.

Mr. Mark Mattson: I get called Matt very often.

Ms. Sophie Kiwala: Do you?

Mr. Mark Mattson: Because of the last name Mattson.

Ms. Sophie Kiwala: Oh, because of the last name. Okay. I'm glad I belong to the masses.

I want to thank you, though, for being here today. I would also like to highlight the work that Waterkeeper has done in the Kingston area. I'm sure you're aware of it and probably spearheading it. They've done amazing things to really focus on the value of preserving our water and making sure that it is fishable, swimmable and drinkable, so great job.

In fact, you'll be aware of the event that they had there last year in June. It was fabulous. I think they did another one this year as well.

Mr. Mark Mattson: Yes.

Ms. Sophie Kiwala: So keep up the good work.

This proposed act will enable the establishment of a geographically focused action on the Great Lakes. I just wanted to get a bit of feedback from you in terms of whether or not you see value. Do you have issues with the geographically focused approach, or suggestions for change there?

Mr. Mark Mattson: It's not something that I'm here really to talk about one way or another. I know many of the other stakeholders who are before you have very great concerns and they're here to represent their local communities.

Being a Lake Ontario Waterkeeper—I'm also on the Waterkeeper board and I'm on the Great Lakes Water Quality Board—I do see the Great Lakes as a whole. I think there's an opportunity for leadership over the Great Lakes and a real, bigger vision for the Great Lakes: swimmable, drinkable, fishable. How that ultimately relates to local communities is always very different. Some have commercial fisheries; some don't. Some have beaches; some have poor beaches. Some are agricultural; some are industrial. Each community has a very different issue that ultimately will prioritize them and get them excited about the community.

I can say universally that the love of the Great Lakes and the need for the Great Lakes—a healthy Great Lakes—is very similar to all of them, but how they go about achieving swimmable, drinkable, fishable will be different. The geographic—the GFIs might be an appropriate way to deal with this, given that many communities have lost swimmable, drinkable and fishable water. The signs are on the waterfront—don't swim, don't fish and don't drink—and I'm sure they would like to pull those signs down someday.

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Ms. Sophie Kiwala: Just a last quick question: Do you see value in having the Great Lakes Guardians' Council?

Mr. Mark Mattson: Yes. That's one of the reasons I support the legislation. I think it's very important that the public be involved to bring their energy and their knowledge and that grassroots enthusiasm to the government, and make this a people issue. It's not just about the

policies, and we can get lost sometimes with the stakeholders as to how to protect them moving forward.

The guardians and that group can bring real knowledge to this piece of legislation going forward, and give it meaning and give it relevance so that it connects with people in Ontario and they have the opportunity to use it to really achieve great things.

The Chair (Mr. Grant Crack): Thank you very much. I appreciate that. We shall move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Thanks very much, Chair. Thank you for being here. A few things jumped out at me that I'd like to just revisit, and then I will ask my question of you.

Mark, I found it interesting that you mentioned that you're connected or associated with the farming community on Wolfe Island. I do appreciate your other comment in your submission where you said that we "should not pass the act just because environmentalists support it. You pass the act"—or any legislation, really—"because it is the smartest investment in this province's future that a government can make." You also went on to say, "No community can prosper when its waters are too polluted to touch, when its drinking water supply is not secure, or when wildlife can't survive." My question, Mark, is this: How do you feel about industrial wind turbines going into the Great Lakes?

Mr. Mark Mattson: Industrial wind turbines? Lake Ontario Waterkeeper was involved in the Green Energy Act. One of our great criticisms of it was that it didn't have enough public participation. We felt that there would have been a great benefit to having the community more involved. The Wolfe Island windmill project went forward, I think, to most people's regret, without that public consultation that was needed. Some could have been moved. It was a siting and a scale issue. But I think overall, that was something that Ontario has learned from.

I was out in Alberta last week at the climate change summit, and one of the things they took from the Green Energy Act bill was that they felt that there needs to be more public consultation to legitimize the process. Even if these things are being done for the good of the community, or that's the overall motive, they still require due process and they require bringing the public on board. The process is really important. We have always believed that, and certainly we are on the record. We were one of the groups, environmental groups, on Lake Ontario that really was part of that process to try and encourage that public participation where we felt it was lacking.

Ms. Lisa M. Thompson: I thank you for that. I appreciate that. That leads to my next question. We find, when we review Bill 66, that it could potentially lead to as much loss of municipal autonomy as the Green Energy Act. You just said that the process is very important. How can we stand up and say, "Let's get this right in Ontario"?

Mr. Mark Mattson: I think if you really look at the Great Lakes Protection Act, what it's signalling is that

Ontario—and I am hopeful that it's not a partisan issue—seeks to be a leader on this issue, that it's stepping forward.

Ms. Lisa M. Thompson: Absolutely.

Mr. Mark Mattson: It's going to bring those individuals and those groups together, and it's going to really find a common vision for the Great Lakes. I am hopeful that when it uses the words “swimmable, drinkable, fishable,” which date all the way back to the Great Lakes water quality of the late 1960s—it was something that was really a term, an important one, that defined the standard by which we hope to bring people around. We can grow, we can use the lakes, but we have to keep it swimmable, drinkable and fishable.

I think that this is a great starting point. The act certainly spells out that vision, and now it is going to take leaders to actually make it happen. Certainly, the Great Lakes guardian panel and the opportunity to be here today—all of this public consultation and involvement are important to making it work. Otherwise, it will become a bill that will gather dust in the corner somewhere; it will be meaningless. It really is going to take true leadership.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the third party. Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Mr. Chair. Mark, good to see you this afternoon.

Mr. Mark Mattson: Yes.

Mr. Peter Tabuns: You remarked that the bill will empower the government to do more. Can you outline, in particular, what you think it should be doing more of?

Mr. Mark Mattson: I've been very clear from the very beginning. It needs to show that Ontario, as it relates to the other eight states, as it relates to Canada and the United States, is prepared to be a leader on the Great Lakes, to recognize the flaws and the mistakes that have happened in the past, and to stand up for a vision—a vision, whether it's for the 45 million people on the Great Lakes or the nine million on Lake Ontario. We've heard all the other facts about the Great Lakes and 20% of the world's surface fresh water.

I think it needs to show that Ontario is going to do a better job of protecting the Great Lakes. My own personal opinion has been that there has been an abdication of that role for the past couple of decades. I think that this is a sign that Ontario is going to ultimately no longer leave it to the federal government or the others to do the work for it. It's going to take a leadership role. I think that swimmable, drinkable and fishable water, and Great Lakes where you can swim, drink and fish, is an important mission and an important vision.

So I am really supportive of this act as a way to move forward, to educate the public, to empower them, and to ensure that, you know—it takes all of those other political jurisdictions for Ontario to be successful. We need leaders.

Mr. Peter Tabuns: Thank you. You suggested the removal of section 31. Would you enlarge upon that?

Mr. Mark Mattson: Sure, and I did enlarge on it on the back of our submission: “Section 31 is a brief

sentence at the end of the bill that creates a loophole by which the minister can avoid complying with any of the timelines otherwise required under the act. This is particularly problematic for the strategy reviews and the progress reports. The six- and three-year reporting requirements should be fixed and unalterable.”

That's really so that it gets to the point that this doesn't become a document that ultimately gathers dust somewhere but keeps the public involved. It keeps them aware of the progress and keeps them excited about being part of this, and really being part of an overall effort to protect the Great Lakes and show leadership.

Mr. Peter Tabuns: Thank you. I have no further questions.

The Chair (Mr. Grant Crack): Thank you, Mr. Mattson, for coming forward.

Mr. Mark Mattson: Thank you very much, and I apologize for my yellow glasses. My other ones broke.

The Chair (Mr. Grant Crack): I never noticed. Thank you, sir.

SIERRA CLUB ONTARIO

The Chair (Mr. Grant Crack): We shall move to the Sierra Club of Ontario. I believe we have Mr. Lino Grima with us. He's the chair of the Great Lakes committee. Welcome, sir. You have five minutes for your presentation.

Dr. Lino Grima: Thank you for this opportunity to comment on Bill 66, the Great Lakes Protection Act. The Sierra Club and its Ontario chapter have been advocates for the Great Lakes basin for many decades. I do not just mean ecological integrity but also economic health and also human health. The most recent example of this is the toxic algae blooms of Toledo that closed the drinking water facility. We cannot have a healthy economy and human health without also ecological integrity.

I have four brief points. First, the Sierra Club is very disappointed that Bill 66 includes a provision for broad exemptions from this act. This, in effect, spoils the act, and it goes against the spirit and purpose of the act. My brief recommendation is to remove it: Remove clause 38(1)(l).

Second, this is an exciting piece of legislation but it is only a series of promises. Please implement it as soon as possible with significant budget support.

Third, this bill gives the Ministry of Natural Resources and Forestry the authority to establish targets in respect of preventing the net loss of wetlands. I think in a previous brief you heard this simple ask: to remove the word “net,” so that the text would read “preventing the loss of wetlands.” I don't think there is anybody in this room who would suggest that we do not need to prevent the loss of wetlands, especially in the lower Great Lakes and Georgian Bay. Most of the wetlands are gone, so we need to protect them to prevent the loss of the few that we have.

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Fourth, and last, we strongly support the provisions for increased citizen participation, the development of the

geographically focused initiatives, regular progress reports to the Legislature and the continuing development of the Great Lakes Strategy.

In conclusion, please pass Bill 66 without delay, with the removal of 38(1)(l) and the word “net” in part IV. Please expedite timely and meaningful implementation of this act. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Grima. We shall start with the official opposition: Ms. Thompson.

Ms. Lisa M. Thompson: Actually, I think we’re fine. We’ll pass.

The Chair (Mr. Grant Crack): We shall move to Mr. Tabuns, from the third party.

Mr. Peter Tabuns: Mr. Grima, it’s good to see you. I’ve followed you on water issues for decades now. You have not stopped, and I appreciate it.

The matter regarding wetlands: Could you talk to us about the state of wetlands around the Great Lakes and your concern about this provision that would allow for net protection of wetlands rather than protection of wetlands as they exist?

Dr. Lino Grima: Certainly. Most of the wetlands, say, around the north side of Lake Ontario have disappeared. In fact, the last time I looked, there were really only two left. One for some reason is called Second Marsh, in the Ajax area, and the other one is in Mississauga—half of it was actually developed, but it’s still a functional wetland. So we have two good wetlands left on the north shore of Lake Ontario. We need to prevent any further loss. Lake Erie is in slightly better shape, but not much.

By the way, I’m not suggesting that we should have kept all the wetlands, especially in the lower Great Lakes, because farming is important and some of these wetlands have been converted to farmland, and people need houses. I’m not saying, “Let’s reverse.”

Why do we want to remove the word “net”? Because the language is not clear. We need clear language in a piece of legislation. If I have a bank account, I can keep the net at the same level by taking out and putting in. We do not want that for wetlands. We do not want the natural wetlands to be developed and then create artificial wetlands to make up. The current wording would provide for that. I think that would be poor legislative text, but I’m not an expert on legislative text. It’s common sense.

Mr. Peter Tabuns: I don’t have a further question. That was the one thing that I had curiosity about. Thank you very much.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. We shall move to the government side and Ms. Mangat.

Mrs. Amrit Mangat: Mr. Grima, thank you for being here. My understanding is you’re supportive of the intent of the bill, Bill 66. Are you?

Dr. Lino Grima: Yes, very much.

Mrs. Amrit Mangat: Very much—thank you so very much. I really appreciate that you’re very supportive of the bill, and I appreciate your organization’s dedication

and passion when it comes to protecting and restoring the health of the natural environment, and, as I’m sure you’re aware of, so is our government.

I’m very pleased to share with you and all the stakeholders and the committee members that last week, our former Premier Dalton McGuinty was awarded North America’s largest environmental organization award from the Sierra Club.

Dr. Lino Grima: Exactly.

Mrs. Amrit Mangat: And the interim executive director of the Sierra Club Canada Foundation, Diane Beckett, said, “We honour those who despite significant challenges make the right decisions for our environment. Premier McGuinty persevered in the face of strong dissenting forces to close power plants and create a green power industry in Ontario. No other government leader in North America has made a greater contribution to fighting climate change.” It’s great news. I’m very pleased, and I’m very pleased I’m a part of that government.

Having said that, would you mind sharing with the committee members: Is it important to have a Great Lakes Guardians’ Council as a collaborative forum to discuss future initiatives and Great Lakes priorities?

Dr. Lino Grima: Yes. I think that’s one of the more exciting parts of the legislation because it gives the opportunity for more discussion and more consensus of the stakeholders. The stakeholders are not likely to agree on everything just by say-so, but if they come together—and this council would help bring them together and create this goodwill feeling.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Grant Crack): Thank you, Mr. Grima, for coming before committee this afternoon. We appreciate your comments.

ENVIRONMENTAL DEFENCE

The Chair (Mr. Grant Crack): From Environmental Defence, we have Natalija Fisher, who is the water program manager. We welcome you. You have five minutes.

Ms. Natalija Fisher: Thank you, Mr. Chair, members of the standing committee. As was mentioned, my name is Natalija Fisher and I’m the new water program manager at Environmental Defence.

As you may know, Environmental Defence works to protect the environment and human health. Protecting fresh water is one of our main focuses.

Environmental Defence is a founding member of the Great Lakes Protection Act Alliance, with whom my predecessor in this role has been working to ensure the passage of three different iterations of this bill. A draft of the alliance’s written submission has been provided for your consideration. My fellow colleague from the alliance, Ms. Anastasia Lintner, will be able to speak in depth during tomorrow’s session specifically regarding the amendments that are recommended.

From the shores of Kingston to the beaches on Lake Huron, Environmental Defence works with beach and

marine managers, their partners and communities to ensure the water quality is safe for swimming. This brings me to my first point. With three of the four Great Lakes in decline, the future recreational, economic and environmental well-being in the Great Lakes-St. Lawrence basin is threatened unless action is taken to address emerging threats.

The lakes are key to the fabric of Ontario. We have a responsibility to protect them, to keep them healthy for the enjoyment and use of the present and future generations of Ontario.

In the 1970s, Lake Erie was severely threatened; it was considered dead. It took the effort of governments at all levels to successfully revive the lake and significantly improve water quality. Unfortunately, the problem of rising levels of phosphorus and algae is back, in addition to a host of new challenges, including climate change, invasive species, habitat loss, toxins and microbeads. If not addressed, the quality of the Great Lakes drinking water and the basin's \$4.4-trillion economy will be negatively impacted. The cost of inaction will be borne by everyone through increased drinking water costs, lowered property values and revenue loss across industries, to just mention the economic costs.

We applaud that the bill provides innovative new tools to address the complex challenges I mentioned. We're supportive of collaborative coordination across the ministries and stakeholder groups, as done through the Great Lakes Guardians' Council, with the inclusion of representatives from environmental organizations, the scientific community, and the industrial, agricultural, recreational and tourism sectors. The collaborative process of identifying regional priorities is key to watershed-based planning.

That brings me to my second point regarding public involvement. We're happy to see that, if passed, the act would create new tools to foster grassroots solutions. It would empower local groups to develop solutions that protect their communities' water. We're setting targets and implementing the geographically focused initiatives. And we applaud the act's legal recognition to consult the traditional ecological knowledge of the First Nations communities.

The third point is that the success of the act is going to depend upon the ability to actually implement it. Environmental Defence wants to see that action is taken, and is happy that at least one meeting of the Great Lakes Guardians' Council will have taken place within a year of the act coming into force. Environmental Defence is a strong proponent of science-based decision-making, and is pleased that the proposed legislation will help do so with improved monitoring and reporting. Specifically, the act requires that the minister prepare a progress report at least once every three years, which will outline, amongst other criteria, the progress made on achieving targets. We are keen to engage on strategies to meet those targets.

Environmental Defence supports Bill 66 with one exemption, and that's the appearance of a broad power to

grant exemptions. You'll see page 8 of the submission make reference to that. Protection of the Great Lakes is of serious importance. Last year, toxic algal blooms in Lake Erie poisoned the water supply for 400,000 people in Toledo, Ohio. With the majority of Ontarians, about 80%, relying on the Great Lakes for their drinking water, and with the basin accounting for about 40% of the country's economic activity, it is not a question of should this act be passed, but one of how soon it can be implemented for the greatest benefit of all Ontarians.

Thank you.

The Chair (Mr. Grant Crack): Thank you very much. I appreciate that. It was a little over a minute under schedule, so congratulations.

1720

Ms. Natalija Fisher: I sped through.

The Chair (Mr. Grant Crack): We shall start with the government side. Ms. Hoggarth?

Ms. Ann Hoggarth: Thank you for your presentation. You went very quickly. I see that you have some things that you would like changed, and it seems to be the same areas where some of the other presenters have had issues in regard to doing away with allowing exemptions, strengthening target commitments and clarifying that the purpose includes protection for habitats for birds, bats and insects.

Those are some of the things that you would like changed, but on the whole, would you say that this proposed legislation that's before us now is a positive step towards protecting the Great Lakes?

Ms. Natalija Fisher: I would certainly say that it's a positive step, and one that is sorely needed at this point.

Ms. Ann Hoggarth: Great. Thank you.

The Chair (Mr. Grant Crack): We shall move to the official opposition. Ms. Thompson?

Ms. Lisa M. Thompson: I was taken by your one comment. During your deputation, you talked about concern about lower property values. Could you expand on what you meant by saying that?

Ms. Natalija Fisher: For the properties that are specifically on the beachfronts and on the shorelines, they might be negatively affected by algae blooms. Whether those are toxic or not, they could be a nuisance, and that would be a concern to the property owners.

Ms. Lisa M. Thompson: That's interesting, because you mentioned the shores of Lake Huron. We have a number of industrial wind turbines cropping up very close to our shorelines as well and lower property values are being dismissed. I just find it interesting how you're equating concern over something evolving out of the Great Lakes on one side in terms of lowering property values, while on the east side of the property, so to speak, industrial wind turbines are being dismissed as not having any effect.

I'd just say good luck with that. I understand where you're going, but if history is any indicator, it will be interesting how that concern is dealt with on a go-forward basis, because just this past week, an individual

was dismissed because of his concern over lower property values due to industrial wind turbines. It will be interesting if this continues to impact on the west side of the property, coming from the Great Lakes.

How do you feel—are you going to comment on that?

Ms. Natalija Fisher: Sure, if you would like me to respond. Thank you for your comments. The reason that I pointed that out was merely to illustrate that there are many potential economic downsides to not taking action by passing this bill. I also want to point out that it's not just for the economic reasons but also for the environmental reasons, both for the enjoyment of current and future generations, that we should be protecting these bodies of water, the Great Lakes and the St. Lawrence basin.

In terms of the difference in the use of one particular argument or another to defend sources of energy or an act, I'm not sure if you're speaking directly about Environmental Defence and previous positions that have been taken. As I am one week and a half into my new job, I wouldn't be able to speak to that fairly, but—

Ms. Lisa M. Thompson: That's okay. You talked about algae blooms; what about phragmites? That's another big concern around our lakeshore.

Ms. Natalija Fisher: I wouldn't be able to provide a personal opinion, as I am here on behalf of Environmental Defence, but if the member is interested, I could forward comments to the Clerk, which I hope would be forwarded on to you afterwards.

Ms. Lisa M. Thompson: Okay. I would appreciate that, because that's another big concern as well, especially with property values.

Ms. Natalija Fisher: Yes.

The Chair (Mr. Grant Crack): We shall move to the third party, the NDP. Mr. Tabuns?

Mr. Peter Tabuns: Thank you for the presentation. Ms. Fisher, the previous speaker, Mr. Grima, talked about the protection of wetlands and not supporting this idea of the protection of net wetlands, preserving the ones that are there now and not setting up a system where artificial wetlands were an option for a developer who wanted to clear out a wetland that had been there since probably the end of the last ice age. What's your position and what's your analysis of the problem?

Ms. Natalija Fisher: On that particular question, we've decided to focus specifically on the four recommendations that have been outlined within the report. My position on this would be reflected within there as it represents the work that has been done over the past few years from two of my predecessors on what is now the third attempt at trying to pass this bill.

Mr. Peter Tabuns: Okay. That was it. Thank you very much, Chair.

The Chair (Mr. Grant Crack): Thank you, Ms. Fisher, for coming before our committee this afternoon. We appreciate it.

Ms. Natalija Fisher: Thank you.

FEDERATION OF ONTARIO COTTAGERS' ASSOCIATIONS

The Chair (Mr. Grant Crack): Next, we have from the Federation of Ontario Cottagers' Associations Mr. Terry Rees. He is the executive director.

We welcome you, sir.

Mr. Terry Rees: Thank you. I didn't have my playbill, so I wasn't sure when I was on the—

The Chair (Mr. Grant Crack): Well, we're a little early, but it's great that you're here and the floor is yours. You have five minutes.

Mr. Terry Rees: Thank you very much, Mr. Chair and members of the committee. I'm pleased to be here today and I appreciate your time and your attention. I have provided written remarks as well which you can have a look at, at your leisure.

As I mentioned, my name is Terry Rees and I'm with the Federation of Ontario Cottagers' Associations. I'm the executive director. Just for a bit of context: We're a province-wide not-for-profit association and we represent over 500 community groups in over 100 municipalities in Ontario. Our members include over 50,000 member families, and we've spoken for over 50 years on behalf of Ontario's 250,000 waterfront property owners.

The vast majority of our members live in the Great Lakes basin, either on the shores of the lakes themselves or within the basin, so needless to say, collectively, we've got a considerable interest and concern about the present and future conditions.

FOCA supports Bill 66, the proposed Great Lakes Protection Act, and we welcome the opportunity to provide a few details, including a few suggestions, in our remarks today.

The objective of a carefully planned and appropriately funded Great Lakes Protection Act will, when implemented, protect and restore the ecological health of the Great Lakes and St. Lawrence River basin, which is a necessary condition for healthy populations and a healthy economy, as we've heard.

The structure provided by the Great Lakes Protection Act helps to clarify and direct Ontario's obligations under the Canada-Ontario Agreement on Great Lakes Water Quality and Ecosystem Health, which was signed last year. FOCA appreciates the complexity of the Great Lakes-St. Lawrence region ecosystem and the urgency of continued and targeted efforts to restore and maintain the health of the environment through a fully implemented Great Lakes Protection Act.

FOCA believes the proposed act could be further improved with a couple of suggestions and related amendments. I'll list those now:

To ensure that real progress is made towards meeting the proposed act's objectives, we recommend the removal of the exemption clause, as you would have heard, which would be consistent with other enabling legislation that the province has in place.

To increase transparency and ensure progress under the proposed act, we recommend that progress reports be

submitted to the Legislature every three years, in addition to the public release of annual reports.

A stronger public constituency for the Great Lakes—and I represent a fairly large section of vested members of the public—must allow input into decisions that impact the health of the Great Lakes-St. Lawrence region. Specifically, the public should be allowed to request new GFIs—geographically focused initiatives—targets and performance measures.

Implementation of the act has to be open and transparent to ensure we're monitoring the right things, collaborating effectively, taking full advantage of public capacity and knowledge, and encouraging innovative, local solutions.

As has been our contention in the past, FOCA believes that a healthy Great Lakes basin can only be accomplished by a credible plan that protects and preserves the watersheds that feed them; this isn't just about the Great Lakes proper.

We encourage the province to bring into law a strong and effective version of the proposed GLPA that incorporates these suggestions.

FOCA looks forward to working with the province to foster Ontario's commitment to conserve and protect its water resources, to meet its international obligations and to help address the shortcomings in our current approaches.

In closing, I might just add my comments that we provided at the launch of the act in February, where we said, "As a uniquely watery jurisdiction, Ontario has both the incredible legacy, and the obligation, to steward the waters of the Great Lakes basin for the continued prosperity of our communities, and for the restorative powers of our lakes and rivers."

I'd be happy to take any questions. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Rees. We shall start with the official opposition: Ms. Thompson.

1730

Ms. Lisa M. Thompson: Thanks very much, Chair. The one bullet point that you had: "A stronger public constituency for the Great Lakes must allow input into decisions...." I appreciate that very much as well.

How does your organization feel about industrial wind turbines in the Great Lakes?

Mr. Terry Rees: I'm not sure that it's relevant to this discussion, but—

Ms. Lisa M. Thompson: I think so, in terms of the ecological systems.

Mr. Terry Rees: The ecological systems? We've not had an official opinion on it. That's all I can say about it. We've had the same concerns about the public process. I think that's public knowledge. All of our opinions are on our website. But in terms of its ecological impact on the Great Lakes, I don't think we've made any opinion about that. That's all I can say on behalf of FOCA.

Ms. Lisa M. Thompson: My position is this: In 2010—it could be 2009 or 2010; we can go check on the EBR—it was interesting. Around Thanksgiving weekend,

it was posted that industrial wind turbines were being considered for Lake Huron. Cottager associations were asked to give input in a very finite window over a long holiday weekend. It has raised concerns and has never been forgotten. That's why I feel, in terms of protecting our Great Lakes and all that we know and love about them, we need to be very considerate of this potential threat. Were you surprised by that or were you familiar with it?

Mr. Terry Rees: I'm not familiar with the window of comment that you're talking about. I might add that our involvement in other public policy realms, including the Ontario Biodiversity Council, which involves multi-stakeholders in source water protection—particularly in source water protection, that was a particularly robust system where they took advantage of local committees to have that kind of input. That was local expertise, farmers, First Nations and technical experts.

Ms. Lisa M. Thompson: Very good. Source water protection committees: absolutely. We have a wonderful one in our Grey-Bruce community, if you will. But you bring up a very important aspect that Bill 66 and the manner in which it is written could absolutely overrule all that great work that you just referenced. How do you feel about that?

Mr. Terry Rees: My understanding of the language is that, not unlike the Clean Water Act, they defer to other prescribed instruments where they achieve the goals of the act. That's my understanding of how I expected it would roll out. So, while keeping the big picture in mind and the goals, objective and targets as the focus and as the end goal, I believe that there are all manner of tools, processes and pieces of legal instruments that are in place already that would feed into the goals of the Great Lakes act.

I know that many of my members are in the north and in rural Ontario. We have very different means and tools. We don't have conservation authorities, typically. So things generally defer to whatever most salient, relevant and resourced piece of legislation or enabling regulation makes sense.

Ms. Lisa M. Thompson: Okay. No further questions.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Thompson. We shall move to the NDP with Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Chair. Thank you, Mr. Rees, for being here today. I asked previous presenters and I'll ask you: This section of the bill that allows for preservation of net wetland territories as opposed to preservation of wetlands—does FOCA have a position on that particular section of the act?

Mr. Terry Rees: I think as a part of the province's wetland strategic plan, we will. There's a month left in the consultations.

Mr. Peter Tabuns: Ah, okay.

Mr. Terry Rees: We're also involved with the biodiversity council. I think our overarching statement would be that preserving the ecological integrity is something that you can't replace. The no-net-loss thing

should only be considered, I would say—it would be our opinion that it would only be considered as a very last resort. It's usually not considered as a one-to-one type of thing because, as you've heard, it's impossible to replace the existing ecological function.

We're in favour of decisions that will retain the long-term integrity of our resources because our families, our members, are all multi-generational people that expect that their grandkids will be able to enjoy the resource the same way they did, and wetlands have an important function.

Mr. Peter Tabuns: Okay. I don't have any further questions. Thank you, though.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. We shall move to the government. Mr. Dickson.

Mr. Joe Dickson: Thank you, Mr. Chair. Thank you for the presentation, Terry. I guess I've been part of that group for half a century or so, having owned cottages from the time I was 20. You do a great job.

Mr. Terry Rees: We appreciate your support.

Mr. Joe Dickson: It's very important that we look after the water, because that's the primary focus, and privacy etc. is also a significant point.

Your organization has championed the need for increased efforts to protect the Great Lakes, and you've indicated that. Do you think that this proposed legislation before us, on the whole, is a positive step in protecting the Great Lakes?

Mr. Terry Rees: I think that what has been done to date is not working and that if we don't have a focus on the Great Lakes, through a dedicated act, we're never going to get there. Time is short, and we need to focus.

Mr. Joe Dickson: I have one quick question, and then I'm going to turn it over to Mr. Colle. Do you see a value in having the Great Lakes Guardians' Council as a forum to discuss Great Lakes priorities, that's bringing the public into the process?

Mr. Terry Rees: We'd encourage that type of forum.

Mr. Joe Dickson: Okay, thank you. Mr. Colle?

Mr. Mike Colle: Yes, thank you for the opportunity. Again, like my colleague here from the east, I'd like to congratulate all the cottage owners who have really taken on the job of stewards of our lakes, as you said, because I think everybody now realizes that if you want to pass this on to your kids and grandkids, you'd better take care of the water and be cognizant of the environmental integrity. I think your organization has really succeeded in doing that. There has really been a cultural change, I think, in a lot of the attitudes that I've noticed in the last decade, certainly, in the stewardship role.

By the way, talking about water here, the amazing thing is—I've got part of the Don River in my riding. In Toronto now, we have salmon going up the Humber River as soon as it gets colder here, in October—25-pound salmon, going up the Humber—whereas in the old

days, you'd be lucky if you found a dead carp in the Humber River. So I think people have done an amazing job of cleaning up that heritage river. That demonstrates that Lake Ontario is a lot healthier, because you can catch great salmon, and that's right here in the city of Toronto.

I think 90% of the people in Toronto don't even know that you can see salmon going up to spawn, up the ladders of the Humber River. That's a plug.

Do you know that from Mississauga, you can see salmon?

Mrs. Amrit Mangat: Yes, I do.

Mr. Mike Colle: Have you ever seen them going up the Humber? In a couple of weeks—

Mrs. Amrit Mangat: Yes.

Mr. Mike Colle: Anyway, the one concern I have is: Does the cottagers' association ever try to do anything to temper this move towards these mega boathouses? On some of the expensive lakes—I've been on a couple of those lakes, like Lake Joe and that, and I say, "Where has the shore gone?" I see these people living with two-bedroom apartments over the boathouses, and they've got workout gyms. They come to Muskoka and then they have workout gyms in the cottage, in the boathouse. Anyway, has there ever been an attempt to try to tell them they've got to naturalize that shoreline and forget about the mega boathouses?

Mr. Terry Rees: It's a long story, but I appreciate the question. I think the opportunity that might be within the Great Lakes act, if I can just circle back to that, is that there needs to be interjurisdictional responsibility for the things where we have obligations. When we've got federal obligations around fisheries habitat and provincial obligations around the fish themselves, and we've got land use obligations under municipal affairs, those things all need to feed into one another—and municipal obligations around zoning bylaws and official plans. Those things are often a bit of a dance between municipal government and municipal affairs and the Ministry of Natural Resources.

That's a long story, and there is some stuff before the courts, so maybe I shouldn't say anything else about boathouses.

Mr. Mike Colle: Good luck.

Mr. Terry Rees: Thank you for your question.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Rees, for coming before the committee this afternoon. We appreciate your comments.

I'd like to thank all the delegations who made presentations and took questions from members of the three parties.

I thank all the members. Great job this afternoon. We shall see you tomorrow at 2 p.m. as we continue with public consultations on Bill 66.

This meeting is adjourned. Thank you.

The committee adjourned at 1739.

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Jeudi 24 septembre 2015

Standing Committee on General Government

Great Lakes Protection Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015 sur la protection
des Grands Lacs



Chair: Grant Crack
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 24 September 2015

Jeudi 24 septembre 2015

The committee met at 1400 in committee room 2.

GREAT LAKES PROTECTION ACT, 2015

LOI DE 2015 SUR LA PROTECTION
DES GRANDS LACS

Consideration of the following bill:

Bill 66, An Act to protect and restore the Great Lakes-St. Lawrence River Basin / Projet de loi 66, Loi visant la protection et le rétablissement du bassin des Grands Lacs et du fleuve Saint-Laurent.

The Chair (Mr. Grant Crack): Good afternoon, everyone. It's great to see everyone this afternoon. Everybody is looking jovial. I'd like to call the meeting to order. Welcome, members of the committee, support staff and, of course, all the presenters here this afternoon to have public hearings on Bill 66, An Act to protect and restore the Great Lakes-St. Lawrence River Basin.

Today, we'll be hearing from presenters for five minutes. I would ask all presenters to stay within your five minutes. We have a full agenda. There could be a few votes for private members' business around 4:30, so we'll move along rapidly, if we can. It will be followed by nine minutes of questioning. We'll start with three minutes from each of the parties.

GREAT LAKES PROTECTION ACT
ALLIANCE

The Chair (Mr. Grant Crack): At this time, I would like to call upon Ms. Anastasia Lintner from the Great Lakes Protection Act Alliance. We welcome you. You have five minutes. Thank you very much.

Ms. Anastasia Lintner: Thank you for the opportunity to speak to you today. My name is Anastasia Lintner, and I'm appearing on behalf of the Great Lakes Protection Act Alliance. The alliance is made up of the Canadian Environmental Law Association, Ducks Unlimited Canada, Ecojustice, Environmental Defence, Nature Canada and the Sierra Club Canada Foundation. The alliance has been advocating for Great Lakes legislation for almost four years, and for some of the organizations, for quite a bit longer than that.

I will, very briefly, refer to a one-page handout. The title is "Excerpt: Great Lakes Protection Act Alliance Submission." Yesterday, Natalija Fisher of Environmental Defence would have given you a very full sub-

mission; this is just the actual language of the amendments that are being proposed.

The alliance is happy to see Bill 66 for two primary reasons:

(1) The Legislature would be committing to the dual purposes of protecting and restoring the ecological health of the basin, and creating opportunities for individuals and communities to engage in achieving that protection and restoration.

(2) There is the provision for new policy tools to address the complexity and current challenges facing the basin.

The alliance believes that Bill 66 provides a solid framework on which significant progress can be made towards protecting and restoring the ecological health of the basin, so long as this government and future governments ensure implementation of both this bill and existing policy tools, seeking to employ the best policy tool that will solve the specific challenge that you're facing.

The alliance supports Bill 66 with one exception: the power given cabinet to exempt from legislation. As well, the alliance believes that there are a small number of amendments that would strengthen the legislation. The specific wording is in the handout that I just gave you. I can say that these amendments are intended to:

(1) Remove the exemption power by striking section 38(1), paragraph (1);

(2) Add clarity to purposes in section 1(2) to ensure there is an understanding that it is the ecological health of our waters and watersheds that we're aiming to protect and restore;

(3) Ensure that consideration is given to international commitments related to ecological health that are beyond just the quality and quantity of water in section 33; and

(4) Create alignment across all government ministries where decision-making may impact the basin's ecological health, by adding a provision after section 5.

The alliance's full submission provides additional detail as to why these amendments are important. You had the opportunity to hear from alliance members Environmental Defence and Sierra Club Canada Foundation yesterday.

If you have questions for me, I'd be happy to entertain them now.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that. It was well within time as well.

We'll move to the questioning, which of course is nine minutes, three, three and three. We'll start with the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Very good. Thank you for being here today. I appreciated the fact that you outlined the members of your alliance. Thank you very much. But as you reviewed Bill 66, did you feel it was incumbent to go out and consult with other organizations such as the Ontario Federation of Agriculture, local source water protection committees or watershed groups? Yes? No? If you did, I'd love to hear about it.

Ms. Anastasia Lintner: Yes.

Ms. Lisa M. Thompson: Awesome.

Ms. Anastasia Lintner: The alliance, in all of the work they have done, have made opportunities to engage in conference calls and webinars to have the alliance express to the Great Lakes community what they're thinking the important components are that need to go in this legislation, and then hear back from them what their concerns are. Each time there was an opportunity to make a submission, the alliance took advantage of reaching out and trying to find out what other people thought about the alliance's positions.

I personally haven't done it, but I understand that members of the alliance have definitely spoken with representatives in the agricultural community. I was engaged in helping to encourage municipalities to speak up if they're in favour of the bill as well.

In the last iteration of the bill, Bill 6, I was involved in my community, which is Kingston, and talking to our council there to see if they supported the bill. They made a resolution indicating that they wanted the government to pass the Great Lakes Protection Act.

Ms. Lisa M. Thompson: Okay, very good. Switching gears and looking at GFIs, geographically focused initiatives: One of our concerns as the PC Party of Ontario reviewed this particular bill, Bill 66, was the lack of details around funding for GFIs. I wondered if that hit you the same way it hit us, and what your thoughts are on that.

Ms. Anastasia Lintner: There is always a concern when we are talking about enabling legislation as to how it's going to be effectively implemented. For the GFIs specifically, in this iteration of the bill there has been an addition to the development of the initiative that requires attention be paid to both what are anticipated to be the costs and benefits associated with achieving the goals and objectives of that initiative, but also in terms of looking for ways in which it could be funded.

So the process for the GFI itself will come forward with some solutions, perhaps some really innovative solutions that haven't been thought of yet.

The Chair (Mr. Grant Crack): Okay, thank you very much. We appreciate that. We'll move to Mr. Tabuns.

Mr. Peter Tabuns: Good afternoon, Ms. Lintner. Thank you for being here.

Ms. Anastasia Lintner: Thank you.

Mr. Peter Tabuns: I want to talk to the point you have here: "The alliance strongly recommends that para

38(1)(l) be removed." Can you tell us why that's important?

Ms. Anastasia Lintner: This particular legislation is enabling a number of things to happen. When we have legislation that puts forward these new tools and opportunities for communities to engage and get involved in protection and restoration of the Great Lakes basin, it's a little bit frustrating to see that cabinet could exempt some aspect of that by regulation.

If there's a commitment to do these things and it's enabling, so that within the context of, for example, trying to develop a target, in the consultations within that target, finding out where some of the challenges are, then that ongoing process will outline what the limitations are and we won't need a power that exempts, because any concerns or things that need to be taken into account can be done within the process itself. Enabling legislation—it's not necessary to have an exemption clause and we prefer that it be removed.

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Mr. Peter Tabuns: So you see it as redundant.

Ms. Anastasia Lintner: I see it, yes, as being unnecessary.

Mr. Peter Tabuns: Unnecessary. And if it's left in, what do you think the risks are?

Ms. Anastasia Lintner: Well, I think that there are a number of things that have been committed to; for example, that the strategy will be reviewed every six years. If there's an ability to exempt, then this government or a future government could write a regulation saying, "We're not going to do that anymore." The commitments and the tools in this bill are important. Seeing them fully implemented is our way to move forward with protection and restoration.

Mr. Peter Tabuns: Thank you. I don't have—

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns.

We shall move to the government. I have two with their hands up, so it's very difficult for me to pick. Ms. Mangat.

Mrs. Amrit Mangat: Thank you for being here. I'm really impressed by the work you and your organization have been doing in collaboration with other organizations, such as Ducks Unlimited, the Sierra Club and many more.

As you said in your presentation, it's very important we restore and protect our Great Lakes. You're very right, because we know 98% of Ontarians live within the Great Lakes and St. Lawrence River basin. Ontario has over 10,000 kilometres of Great Lakes shoreline, and more than 13 million people in Ontario rely on the Great Lakes in one way or another: for drinking water, food, electricity, employment and enjoyment.

Having said that, my question to you is: One of the purposes of the proposed act is to involve communities and individuals so that they can work co-operatively and collaboratively. Do you see value in that?

Ms. Anastasia Lintner: I see great value in that. When individuals and communities are looking within

their watershed and seeing a challenge that we don't yet have a tool to address, often because there's not just one sector that's contributing to pollution, it's not just one type of land use—looking at your watershed, if you have great ideas about what we could do to solve the problem, I see the opportunity in this bill to get engaged, to bring to the attention of the minister through the provision that allows you to make a request that a GFI be developed, to bring those ideas forward, and then to have the opportunity to engage with other members of the community in your watershed, across disciplines, across sectors, and come up with solutions to the problems that we're facing.

Mrs. Amrit Mangat: Thank you. My colleague would like to ask you the second question.

The Chair (Mr. Grant Crack): Thirty seconds.

Mrs. Kathryn McGarry: The proposed act would provide authority for setting of targets. Do you support setting targets, in collaboration with your local agencies, which could help achieve local and binational objectives?

Ms. Anastasia Lintner: Absolutely. If we know what we're aiming for in order to achieve it, and there are also provisions that there could be an action plan for achieving it, I think we will see better solutions coming forward than maybe we've seen in the past.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Lintner, for coming before committee this afternoon. We appreciate your input.

ONTARIO FRUIT AND VEGETABLE GROWERS' ASSOCIATION

The Chair (Mr. Grant Crack): We shall move to the Ontario Fruit and Vegetable Growers' Association. We have two gentlemen with us this afternoon. I will let you do your introductions for the record. Thank you very much. Five minutes, sir.

Mr. John Kelly: Good afternoon. I'm John Kelly. I'm executive vice-president of the Ontario Fruit and Vegetable Growers' Association. To my left is Jason Verkaik, a farmer and chair of the board of the association.

I would like to thank this committee for giving the OFVGA the opportunity to comment on this bill, Bill 66. We have made a submission on this bill.

We are a lobby organization that acts on behalf of Ontario's fruit and vegetable growers. We represent members provincially, nationally and internationally on issues affecting production sustainability, food safety and more. The OFVGA has an active and engaged board of 11 members focusing on property, safety nets, crop protection, labour, research and other things.

In Ontario alone, the horticulture sector supports 30,000 farm-based jobs, and 125 different fruit and vegetable crops are grown in this province, with an estimated farm gate of \$1.6 billion. Our grower members are strongly committed to providing Ontarians with locally grown, sustainable food using innovative best management practices. To growers, sustainability speaks to environment, economic and social principles that allow farming to remain viable for years to come. These

principles are tied together and support the long-held tradition that farmers are stewards of the land and water resource management plays an enormous role in agriculture.

In fact, horticulture producers stand to be affected immensely by the legislation involving the Great Lakes. It is with this in mind that the OFVGA supports a stakeholder-led, science-based approach to stewardship of the Great Lakes. Looking at the health of our greatest water resource, we must consider environmental, economic and social implications of a policy that aims to make each industry's use of the lakes more sustainable.

I would now direct your attention to the précis that we have provided to you. It gives a general outline of our submission.

We firmly believe that regulations should be implemented only after science-based conclusions are drawn from a specific problem. When there is a gap in knowledge, scientific research must be taken prior to creating legislation. There is a concern with part IV, subsection 9(2), that gives power to the Minister of the Environment and Climate Change to arbitrarily set targets for the reduction of algae blooms two years after the initial legislation occurs. Targets should be set based upon scientific evidence as it becomes apparent, and should be adaptive.

We support the formation of the guardians' council; however, its effectiveness could be increased by developing regional sub-councils that speak to the health of each lake and meet at a greater frequency.

There is concern among many agricultural organizations that Bill 66 will create unnecessary overlap with current legislation. OFVGA members are already subject to the Ontario Water Resources Act, the Environmental Protection Act, the Clean Water Act, the source water protection act and the Nutrient Management Act, including the new greenhouse nutrient feedwater regulation.

The concern is that the act will only confuse stakeholders as to which act takes precedence. How the new act will incorporate current regulations into its targets and initiatives is unclear, and the OFVGA would like to see a streamlined legislation that makes use of current regulations and policies that would make it easier for stakeholders to adhere to.

Perhaps the greatest apprehension is the development of targets surrounding water protection. OFVGA does support the use of targets; however, we recommend that research be done to assess what contribution current production practices contribute to the loading in the lakes. We insist that new targets and initiatives should be considered after an economic impact study is completed. Offsets to any sectors that would face economic impact should also be considered. Any new targets should be science-based.

Another key element to this legislation surrounds watersheds connected to the Great Lakes and the various wetlands used to feed them. The assessment of wetland health is a key component, but in order for the assessments to be accurate, there needs to be an established

definition of what constitutes a wetland. OFVGA questions whether there is a good inventory of wetlands across Ontario and, if there is a need to collect more appropriate data, what role would the Ministry of Natural Resources and Forestry play in acquiring these data?

More importantly, the OFVGA questions whether there is enough science on both sides of the lake—meaning the US—to make rational, informed decisions. While there is a need for monitoring and reporting programs on the Canadian side, there is no clear idea where this responsibility falls within Bill 66.

Firming up our knowledge of the true causes of Great Lakes emergencies, such as algae blooms off the coast of Toledo is simply good policy, so we support the efforts of the government to achieve this knowledge and ask that it is done through sound, scientific channels.

We appreciate the opportunity to comment on what will become an important piece of legislation. We applaud the effort that the government of Ontario is making to assist with the sustainability of the Great Lakes, and we hope that you will consider our suggestions that policies such as these must be comprehensive and scientifically sound in order to achieve long-term economic, social and environmental sustainability of our water resources.

The Chair (Mr. Grant Crack): Thank you very much. One second left. Good job.

Mr. Tabuns, we'll start with the third party.

Mr. Peter Tabuns: Thank you very much for being here today and presenting.

You mentioned concern about the minister setting targets for reducing algal blooms. Can you enlarge on that?

Mr. John Kelly: Yes. We have concerns that the minister—or whoever is in that position—can arbitrarily set these targets. There is nothing in the legislation that we see that says it has to be based upon any scientific principle, so we're very concerned about that type of thing.

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Mr. Peter Tabuns: Okay. It's hard for me to imagine a minister from any party setting a target for reduction in algal blooms that wouldn't rely on science.

Mr. John Kelly: You're correct. I won't say anymore.

Mr. Peter Tabuns: Okay. No, I understand why you're saying that.

I don't have a further question, Mr. Chair.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. We shall move to the government. Mrs. Mangat.

Mrs. Amrit Mangat: Mr. Kelly, thank you very much for your presentation. I know that farmers are important stewards of the land. I, myself, am from a farmer's family. I know from where you're coming, and I can imagine your feelings.

My question is, how can we best involve fruit and vegetable growers in the implementation of the Great Lakes act?

Mr. John Kelly: The first thing is, we are already subject to half a dozen acts concerning water in itself, so

the legislation must be streamlined. That's the first thing. The second thing is it must be based upon scientific principles and not, for want of a better word, political whimsy, so it has to have some strong background in the implementation. Third would be to engage the fruit and vegetable growers. The only engagement that we've really had is through the submission of what we've had, and there hasn't been anybody who has connected with us on this matter.

Mrs. Amrit Mangat: So what I understand is to promote best management practices and an innovative approach; that's what you're talking about?

Mr. John Kelly: That's certainly part of it, yes, but also looking at what the economic impact is, what the impact on the long-term sustainability of fruit and vegetable production in Ontario is.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Grant Crack): Thank you. Mr. Dickson, did you have anything to add?

Mr. Joe Dickson: If I could mention just a couple of things. First of all, there are a lot of us here who are related to farm families and we know that that's the basics of our everyday survival. Without farming, we would obviously starve to death.

I just came from the Vatican, and I was sitting just nine rows off to the side of the Pope, and they had a representative there from the United Nations. They spoke on the papal encyclical. I don't know if you're aware of it or not, but you should be because it's being grasped worldwide.

I congratulate you on what you're doing. We're anxious for your input. We're always concerned about not having the opportunity to have a collaborative effort where we all come together on this. My question is, do you feel the same way on that? The more input that we have from you, the general public and those major providers for food using water—is crucial.

Mr. John Kelly: I think it is. Agriculture in this province contributes \$34 billion to the economy. We are, if not the largest, one of the top two contributors to the economy, so we have to be consulted on these things, just from that perspective. But certainly, from an engagement perspective, yes, we need to be engaged as much as possible.

Mr. Jason Verkaik: And you mentioned water usage. I am a farmer, and there are years I will not irrigate because Mother Nature does it for me. But farmers are very adept at using the exact amount of water they need, because if they don't, they will destroy the root structure and the plant's ability to grow if they use too much. So we're very conservative in our water use efforts. It's done according to what the plant needs. It's the same when we put fertilizers in our soil: We have soil tests that map out exactly what's in our soil. We have the science that tells us what an onion would need or what celery would need, and so we can adapt our fertilizer programs to that so we're not contributing more fertilizer to the ground than we need to. It's a real balance in what we do. It's very high tech and it's very understood so there's not excess done.

I farm in the Holland Marsh, where our big watershed issue was with Lake Simcoe. They had a lot of issues around phosphorus. The Holland Marsh contributes 2.75% of the total phosphorus into Lake Simcoe. We're the lowest-contributing into Lake Simcoe because we have the technology to understand what we need to do and how we need to do it.

The Chair (Mr. Grant Crack): Okay, thank you very much. I appreciate that. You have quite a bit of extra time. Mr. MacLaren.

Mr. Jack MacLaren: This question is more about land and property rights, which, of course, is the greatest asset of farmers. Would you be supportive of the concept of an amendment to this legislation that would provide full, fair and timely compensation to landowners for the loss of enjoyment, use, value or profitability of their land?

Secondly, a similar question: Would you support an amendment that would provide 50% of the seats on the guardians' council to landowners?

Mr. John Kelly: On the first one, we would be supportive of the economic impact and the results of an economic impact analysis. If that's what came out of it, yes, we would be supportive of that.

On the second one, having private citizens on the guardians' council—

Mr. Jack MacLaren: Landowners.

Mr. John Kelly: Landowners. Yes, we would be supportive of that too.

The Chair (Mr. Grant Crack): Ms. Thompson.

Ms. Lisa M. Thompson: Thank you very much for being here, gentlemen. I'd like to go back and revisit a very strong message I heard: that any targets developed should be based on scientific evidence. Just to clarify, I think it's safe that you wanted to emphasize that because of the devastating effect the legislation regarding neonics had. Is that fair?

Mr. John Kelly: It's not just neonics; it would be any legislation.

Ms. Lisa M. Thompson: Okay, very good. Thank you. I appreciate that.

With that, as well, you referenced many layers of legislation, and that perhaps questions why this piece of legislation is even necessary. How do you feel about extra layers of legislation or regulations affecting farmers in Ontario?

Mr. John Kelly: We've had the Environmental Farm Plan for 25 years, and it's not really enacted in legislation. It was initially a voluntary program initiated by farmers for farmers to protect the environment. It really protects our way of living. It's our key asset, and that's the reason we do it.

Ms. Lisa M. Thompson: I would agree with that. Yes, absolutely.

And then switching gears just a notch: In terms of the geographically focused initiatives, we have concern that some of those initiatives could potentially override municipal plans or bylaws. As farmers, you work with your local municipalities day in and day out. How do you

feel that a regional or a provincial guardians' council or a body determining GFIs could potentially override your local council's authority?

Mr. John Kelly: That's one of the reasons that we recommended sub-councils to take care of those types of things. It becomes a balance. How far down the chain do you go, and how much engagement do you have? It will come to a point where it's just not useful. There has to be a balance somewhere. We think just with one guardians' council, that's not enough.

Ms. Lisa M. Thompson: Not enough. Okay. Very good. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate both gentlemen coming forward this afternoon and sharing your views.

DUCKS UNLIMITED CANADA

The Chair (Mr. Grant Crack): Next we have, from Ducks Unlimited, Mr. Kevin Rich. We will hear from you for five minutes, sir, then we'll start with the government in questioning. Welcome, sir.

Mr. Kevin Rich: Good afternoon, Mr. Chair and members of the committee. My name is Kevin Rich and I am the provincial policy specialist for Ducks Unlimited Canada in Ontario. In this brief presentation, I will walk you through the role of wetlands and Ducks Unlimited in protecting and restoring the Great Lakes, what we like in Bill 66, and two recommendations we feel would further strengthen the bill.

At DUC, our mission is to conserve, restore and manage wetlands and associated habitats for the benefits they provide waterfowl, other wildlife and people. Thanks to the efforts of 30,000 supporters, approximately 1,100 volunteers and our partners, we've been able to conserve almost one million acres of habitat in Ontario, virtually all of which lies in the Great Lakes basin. We're proud of our work in the basin on both sides of the border, including roles we play in the Eastern Habitat Joint Venture, the Great Lakes Wetlands Conservation Action Plan and the Great Lakes Protection Act Alliance.

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A bit about the science: The science that links wetlands, healthy watersheds and healthy Great Lakes is unequivocal. Wetlands provide essential ecosystem services that are required to combat climate change by building community resiliency, which we hear a lot about these days; addressing water quality and water supply issues; conserving biodiversity; and sustaining economic growth in the basin.

Despite these values, however, we continue to see loss in the basin. Approximately three quarters of southern Ontario wetlands have been lost due to conversion to other land uses. However, there is reason for hope, based on a commitment in 2014 by the Ontario government to reverse wetland loss, as well as through tools enabled by Bill 66.

We commend the Ontario government for making important amendments, resulting in a strengthened Bill

66 compared to previous versions of the legislation. For example, we are very supportive of new language in the purposes section regarding the protection of watersheds in addition to wetlands and other important features, and the need to account for the impacts and causes of climate change.

We're also supportive of strengthened reporting requirements, which will help ensure a higher level of transparency and accountability, and a simplified yet still rigorous process for approving geographically focused initiatives.

To further strengthen the bill, I would like to highlight two of the proposed amendments that have been put forward by the Great Lakes Protection Act Alliance.

Firstly, we support the call to remove the provision in Bill 66 that gives cabinet broad exemption powers. Those powers were not in the previous two versions of the legislation and we see no reason for them to be in Bill 66.

Secondly, we believe there needs to be language added that drives greater alignment and accountability across multiple ministries. The task at hand here clearly extends well beyond the Ministry of the Environment and Climate Change.

In addition we would recommend, in order to take full advantage of Bill 66, that the province allocate sufficient funding towards effective implementation of the bill.

In conclusion, we congratulate the government for reintroducing and moving forward with this important legislation. Bill 66 won't be a panacea for the Great Lakes but it will empower government, NGOs, local communities and individuals to use the right tools in the right places, tools we need to help restore the Great Lakes for the benefit of all Ontarians and for generations to come.

Thank you for the opportunity today to present to the committee. I would be happy to answer any questions the committee may have.

The Chair (Mr. Grant Crack): Thank you, Mr. Rich. We shall start with the government side. Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Mr. Rich, for your presentation. My understanding is that your organization is very supportive of the proposed act. That's what you said in your statement.

Mr. Kevin Rich: That's correct.

Mrs. Amrit Mangat: Okay. Thank you so very much. And thank you very much for your commitment to wetland conservation for more than 70 years and all that.

Mr. Kevin Rich: Thank you.

Mrs. Amrit Mangat: After having said that, my question to you is this: You said in your presentation that this proposed bill empowers local communities and individuals to use the right tools in the right place. Do you think the Great Lakes Guardians' Council, as a collaborative forum, is very important for discussing future initiatives and priorities, and to set targets?

Mr. Kevin Rich: I do see value in the role of the council in that regard. Given the huge diversity of land, of land pressures, of economic activity and pressures across the Great Lakes basin, we see the role of the Great

Lakes council in helping to provide advice that represents the diverse set of interests and priorities across the Great Lakes basin.

Mrs. Amrit Mangat: Thank you. Can you throw some light on how monitoring and reporting programs are important to the proposed act?

Mr. Kevin Rich: I'll speak to that in the context of wetlands. If it wasn't for ongoing measurements and monitoring of the extent of wetlands and other important natural features, it's hard to know if you're winning, losing or just standing still. So the adage, "You can't manage something you can't measure," holds true for environmental concerns as well. We're very interested in ensuring that ongoing monitoring of the extent of wetlands is continued by this government.

Mrs. Amrit Mangat: Thank you. In the Lake Simcoe watershed, the province has worked with many partners to promote best management practices and innovative approaches. Do you think a similar approach could be applied with respect to the Great Lakes act?

Mr. Kevin Rich: I think there is always value in working with different stakeholders, whether they are in the agricultural community or other industrial sectors—to work with them on best management practices and to communicate the latest science around the values associated with conservation.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Thank you very much. It's good to see you here.

Mr. Kevin Rich: Thank you.

Ms. Lisa M. Thompson: I appreciate your information that you shared through your deputation, but, Kevin, there is one thing that really caught my eye. You said, "Firstly, we support the call to remove the provision in Bill 66 that gives cabinet broad exception powers (through section 38 of the bill)." You went on to say, "These exception powers were not in the two previous versions of this legislation and therefore we see no reason for them," in this current iteration of this bill. So, Kevin, on behalf of Ducks Unlimited, what is your worry? Why do you think they put this into Bill 66, and what's your worry in terms of what they might want to do with the cabinet exception power?

Mr. Kevin Rich: Exemption powers.

Ms. Lisa M. Thompson: Exemption powers, yes. I just—

Mr. Kevin Rich: I think the concern is that it's just not necessary. As my colleague Anastasia Lintner commented on, the way that the different tools are developed in the bill, particularly for the setting of initiatives and targets, there are checks and balances in place already that limit the reach of those powers. We think that those are likely sufficient to ensure that the powers they use meet the purposes and the outcomes desired in the bill.

Ms. Lisa M. Thompson: Okay. Interesting.

With regard to the overall makeup of the guardian council, we've done consulting on this bill ourselves and we've heard through deputations prior to yours that there is some thought toward breaking down that guardian council and having more subcommittees, if you will, that reflect local realities around each lake. How does Ducks Unlimited respond to that?

Mr. Kevin Rich: I will be perfectly honest: We haven't given that particular idea much consideration. My reaction is—I'll speak for myself here and put my own hat on—I think that makes sense. Again, to reflect the diversity of issues and challenges across the Great Lakes basin, I can see value in that, but that is not something our organization has turned their mind to.

Ms. Lisa M. Thompson: Okay. I appreciate that.

I think that's it, Chair. Thank you very much.

The Chair (Mr. Grant Crack): Thank you. Mr. Tabuns.

Mr. Peter Tabuns: Mr. Rich, thank you for the presentation today. My colleague actually asked the question I was interested in, and so I won't have a redundant question for you. Thank you. I have no further questions.

The Chair (Mr. Grant Crack): Thank you very much. Thank you for coming before committee this afternoon. We appreciate it, Mr. Rich.

Mr. Kevin Rich: Thank you for the opportunity.

COMMUNITY ENTERPRISE NETWORK INC.

The Chair (Mr. Grant Crack): Next, from Community Enterprise Network Inc., we have Mr. Jeff Mole, who is the president. Welcome, sir.

Mr. Jeff Mole: Hi, Mr. Chair. Do you mind if I videotape my presentation?

The Chair (Mr. Grant Crack): To members of the committee, there has been a request for Mr. Mole to videotape his presentation. So you'll be filming just yourself?

Mr. Jeff Mole: Just myself, not the members of the committee.

The Chair (Mr. Grant Crack): Is there any opposition at the committee level?

Mr. Joe Dickson: It's a public forum. Go for it.

The Chair (Mr. Grant Crack): Very good, sir. Permission granted.

Mr. Jeff Mole: Very good. Good afternoon. My name is Jeff Mole. I am president of Community Enterprise Network Inc. Our mission is to give Ontario communities the tools they need to participate in government procurement in a way that profits will be reinvested back into communities. We are a shared-service start-up organization in the business of helping communities develop community enterprise.

I am here today to speak in support of Bill 66, the Great Lakes Protection Act, and we ask the committee to consider amending the bill to prioritize community enterprise for delivery of the services required to achieve the purposes of the act.

The preamble states, "All Ontarians have an interest in the ecological health of the Great Lakes-St. Lawrence River basin. The government of Ontario seeks to involve individuals and communities in its protection and restoration."

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The purposes of the act are "to protect and restore the ecological health of the Great Lakes-St. Lawrence River basin" and "to create opportunities for individuals and communities to become involved in the protection and restoration of the ecological health of the Great Lakes-St. Lawrence River basin." This is good stuff. However, who will do the work to achieve the act's purposes, and who will fund the initiatives?

Our concern is that the work will be outsourced to the private sector, with little or no regard for the social enterprise strategy for Ontario which was launched by the government in 2013. This strategy is the province's plan to become the number one jurisdiction in North America for businesses that have a positive social, cultural or environmental impact, while generating revenue. To meet the goals of this strategy, we believe the government needs to take a strategic look at community enterprise for all government procurement.

A community enterprise is a non-share capital corporation that meets a need and provides benefits. A community enterprise is run by a group of people who get together to develop a business that creates jobs and generates economic activity with a view to investing any surplus or profits for the betterment of Ontarians.

A community enterprise provides an alternative to privatization of public services by delivering competitive services while reinvesting surplus revenues in education, health care and community betterment.

Our expertise is in the field of broader public sector procurement. Our mission is to develop community enterprise in the following areas: school busing; farming and local food production; mining in the Ring of Fire; energy generation and distribution; liquor and beer sales and distribution; toll highways; highway maintenance; resource extraction and processing; waste management; energy from waste; invasive species eradication; wireless communication; attainable housing; untapped retail markets—the list goes on.

In our experience, mobilization and access to affordable capital are the main hurdles to a strong community enterprise sector in Ontario. Our goal is to work with government to help overcome these hurdles by recruiting directors, raising funds, and building membership to help grow community enterprise in Ontario. We provide the expertise needed to seek out public service opportunities, engage communities, and develop business opportunities for community benefit.

We are coordinating an initiative to develop a province-wide network of large-scale community enterprises in the government services sector. We can't do it alone. We need a government that understands the need to invest in growing the community enterprise sector for delivery of services. Accordingly, we encourage memb-

ers to amend the bill to create a pilot program to help social enterprise be part of the procurements related to projects to achieve the purposes of the act.

Furthermore, we encourage the members of this committee to bring forward a community enterprise act. This act would help facilitate the mobilization of communities and financial resources for the development of the capacity of community enterprise to play a part in public sector procurement and the delivery of publicly funded services. Communities must have adequate tools to do the jobs that governments have advocated. This is a conversation that is long overdue.

I look forward to your questions and hearing a motion to amend this bill.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Mole. We're going to start with the third party and Mr. Tabuns.

Mr. Peter Tabuns: Mr. Mole, the idea of having community enterprises makes a lot of sense. Do you have a suggestion as to how we would fund the program that you've suggested?

Mr. Jeff Mole: There are going to be projects that come up that are going to flow out of this bill. It says so in the bill. Those projects are presumably going to be funded, perhaps by government, perhaps through the non-government sector. The bill is not clear on that.

What is clear, though, is that within the government's strategy, which was called Impact—A Social Enterprise Strategy for Ontario, it was clear that the government said they were going to have a pilot project around the Pan Am Games. They were going to give social enterprise the tools they needed to compete for projects under the Pan Am Games.

I don't know the outcome of that pilot project. I don't think it happened, but it's certainly worth asking the question. And if it didn't happen there, perhaps it can happen within the guise of providing projects under this act.

Mr. Peter Tabuns: Okay. Thank you.

The Chair (Mr. Grant Crack): We'll move to the government. Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you very much for your presentation. One of the purposes of the proposed legislation is to create opportunities for individuals and communities to become involved in the Great Lakes' protection and restoration.

Mr. Jeff Mole: Of course.

Ms. Ann Hoggarth: Do you see value in fostering public and community engagement on the Great Lakes?

Mr. Jeff Mole: Absolutely. Everything is proponent-driven. If we're going to engage communities, we need to engage them through a proponent. There needs to be an organization that is going to be the proponent for the project. That gives the community an opportunity to participate through an organizing proponent.

Government needs to understand the need to mobilize proponents. Quite often we've seen that when the government looks to having a proponent for, let's say, an energy project, they'll put it out to the private sector and

let the private sector handle it. But that doesn't necessarily give the best return on investment for taxpayers when it comes to developing these projects, whether it's energy projects, school busing, invasive species eradication or whatever other projects might flow out of this act.

We need to get our heads around the need to mobilize and give these organizations access to affordable capital, so that they can run a successful business that does good projects with good outcomes.

Ms. Ann Hoggarth: Just one more question: Do you feel that setting measurable targets and tracking performance in achieving targets is important?

Mr. Jeff Mole: Of course, in any government procurement or the outcomes of the act, absolutely.

Ms. Ann Hoggarth: Great. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Thanks for being here, Jeff.

Mr. Jeff Mole: My pleasure, Lisa.

Ms. Lisa M. Thompson: I appreciate your perspective on community enterprise. One thing really jumped out for me. My interpretation was that a key to a successful community enterprise is access to affordable capital.

Mr. Jeff Mole: Yes.

Ms. Lisa M. Thompson: I'm just wondering: In reviewing the bill, Jeff, are you concerned that this particular act has no funding commitment defined whatsoever at this time?

Mr. Jeff Mole: Absolutely. One would think that perhaps the Ministry of the Environment and Climate Change would have a mandate to protect the public interest and have some resources at their disposal to put towards this. I don't see that in the act.

But from our perspective, we need to see the ability to deliver these services and put forward proposals that make sense. Without having the tools to mobilize and put together a business case to bring to government, we're really flying blind and working with hypotheticals. We need to have strategic policies that allow community enterprise to identify the need and bring forward proposals to deliver a service to government that provides a good return on investment for taxpayers, but also reduces the size of government at the same time.

Ms. Lisa M. Thompson: I appreciate those sound business pillars that you just described. Clearly we don't have that defined in this act, so it is a worry for us as well.

Mr. Jeff Mole: We said we were going to do that in the energy sector. We said we were going to give communities the tools to participate in renewable energy, and yet, something got lost in the shuffle. Under the Green Energy Act, the community piece of it was just swept aside. That needs to change.

Ms. Lisa M. Thompson: Do you trust that this government will get it right with this particular piece of legislation?

Mr. Jeff Mole: I can only hope.

Ms. Lisa M. Thompson: Okay. Thank you.

Mr. Jeff Mole: Thank you.

The Chair (Mr. Grant Crack): I believe that concludes the questioning component. Thank you, Mr. Mole, for coming before the committee and sharing your insight.

ONTARIO LANDOWNERS ASSOCIATION

The Chair (Mr. Grant Crack): We shall move to the Ontario Landowners Association. I believe we have two members here with us today. I'll let you do the introductions. We welcome you here. You have five minutes for your presentation.

Ms. Jessica Lauren Annis: I thank the committee for having us here today. My name is Jessica Lauren Annis. I am the founder and interim president of the Toronto Private Property Rights Association, which is a chapter of the Ontario Landowners Association, which makes me a director. To my left here is Moira Egan. She's going to speak to the bill. She is a director of the Toronto Private Property Rights Association.

I just want to say that through my participation on over a dozen local and provincial committees, including two LGIC appointments, and deep research, I have gained a thorough understanding of sustainable development, as has Moira. Having said that, I'm going to pass it on to you.

Ms. Moira Egan: Hello. Bill 66 is the continuation of the implementation of sustainable development in Ontario, so it is important to understand what sustainable development is and what it is not.

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Sustainable development is a top-down, authoritarian, collectivist ideology masquerading as a grassroots environmental movement. It is global in its reach and is promoted by globalist social engineers who are, for the most part, funded by deep-pocketed foreign NGOs and crony corporatists.

Bill 66 is not about the environment; it is about control. Specifically, it is about continuing the centralization of power, the depopulation of rural Ontario, the impoverishment of the population through deindustrialization, the transfer of wealth from the people to the 0.0001%, the destruction of our common-law rights, specifically private property rights, the delegation of governance to special interest groups, the creation of a privatized technocracy to regulate every aspect of our lives, and ultimately the destruction of self-reliance and free will.

The results of the implementation of sustainable development in Ontario to date are not pretty. Not only has Ontario lost 300,000 good-paying manufacturing jobs, but countless lives and families have been destroyed in the process and more than a few people, including a friend of mine, have been persecuted to death.

The majority of the people behind me who self-identify as environmentalists are not. They are globalists intent on creating a worldwide neo-feudal system, and

when their mission is complete, joining the elite to rule over the rest of us.

To that end, Bill 66 will cement the unholy alliance between the Ministry of the Environment and Climate Change, conservation authorities and globalist NGOs to centrally plan and govern land use planning for local communities across Ontario. If fully implemented, Bill 66 will spell the end of prosperity in Ontario and profoundly damage the environment, as meticulously researched and documented by Elizabeth Nickson.

I would like to conclude my presentation with a paraphrase of Pius XI: Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do. For every social activity ought of its very nature to furnish help to the members of the body social, and never destroy and absorb them.

That concludes our presentation.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that. I'm going to start questioning on the government side. Mr. Dickson.

Mr. Joe Dickson: Thank you, Jessica. Thank you, Moira. I'm going to ask you a couple of questions. I would just preface them by saying that I think I've been at the table for about 40 years at the municipal and regional level—deputy mayor, Catholic school board, all of those good things. I understand some of the problems are where proper consideration is not given to the citizen at large, the general citizen at large. They become overburdened with a number of things. Sometimes there is over-enforcement on compliance and that's a problem.

I did notice that you had mentioned the paraphrase of Pius XI.

Ms. Moira Egan: Yes.

Mr. Joe Dickson: Good for you. You should pay very close attention to the papal encyclical of Pope Francis, which—

Ms. Moira Egan: I am very familiar with it.

Mr. Joe Dickson: Wonderful. You should lead the way.

I'm going to incorporate a couple of questions into one question: How can we, as the province, best involve landowners in the implementation of the Great Lakes Protection Act, should it move forward? Part of that is, would you support changes to the bill that would require consideration of existing policies and plans when developing geographically focused initiatives and for requiring consideration of costs and benefits?

Ms. Jessica Lauren Annis: How to engage the landowner—I think it's best done at the local level. The local landowners have been completely disenfranchised through the Green Energy Act. I think this is another Green Energy Act, but now with land use planning. I don't think you can fix this bill.

Mr. Joe Dickson: Okay. I should point out that what we're hoping to do this time, and working very diligently

on it, is to bring compliance where the general public is involved. Do you agree with that philosophy, that we would form—

Ms. Jessica Lauren Annis: You're bringing in centralized planners from MOE.

Mr. Joe Dickson: Yes.

Ms. Jessica Lauren Annis: I sat on the Lake Simcoe Stakeholder Advisory Committee. It was extremely divisive. Science was actively suppressed. People most knowledgeable about the lake were not allowed to present. I think it's a terrible process when it gets centralized like that.

Stakeholders were completely ignored. I know that this committee looks at that as a good process. For one who was there, day after day—I can't talk about what specifically happened in the committee because I signed a non-disclosure, but I can tell you that overall, it was a terrible process.

Mr. Joe Dickson: I think that if you talked to everyone in this room, they've probably sat on one committee or another that has not been perfect in their mind and has been a problem—

Ms. Jessica Lauren Annis: I've sat on dozens and dozens of committees, and that was probably the worst.

The Chair (Mr. Grant Crack): Okay, thank you very much. I appreciate that. We shall move to the official opposition. Mr. MacLaren.

Mr. Jack MacLaren: Do you have any amendments you would like to make to this bill?

Ms. Jessica Lauren Annis: I don't have any specific amendments in mind, no.

Mr. Jack MacLaren: Okay. That's it.

The Chair (Mr. Grant Crack): Okay, thank you very much. We shall move to the third party. Mr. Tabuns.

Mr. Peter Tabuns: I take it, then, that you believe we should be voting the bill down?

Ms. Jessica Lauren Annis: Yes.

Mr. Peter Tabuns: Okay, thank you.

The Chair (Mr. Grant Crack): Thank you very much. Thanks to both of you for coming before the committee and sharing your position.

NATURE CANADA

The Chair (Mr. Grant Crack): We shall move—maybe I better do a request here: Would Nancy Goucher from Freshwater Future be here? Anyone from Nature Canada? Oh, that's the teleconference.

Interjection.

The Chair (Mr. Grant Crack): What we're going to do is take a few seconds to attempt to get the 3:30 delegation on. He's here? Okay, so we're going to move the agenda around a little bit due to the fact that we're ahead of schedule a bit. From what I understand, Mr. Cheskey from Nature Canada is on the line. Is that correct?

Mr. Ted Cheskey: Yes, it is.

The Chair (Mr. Grant Crack): Good. It's great to have you with us this afternoon, sir. I'm sure you're well

aware of the process: You'll have five minutes to make your presentation to the members of the committee, followed by up to nine minutes of questioning or comments from members of the committee, as well. Could you maybe let us know where you're from?

Mr. Ted Cheskey: Absolutely. I'm phoning you from Ottawa, and I'm with Nature Canada.

The Chair (Mr. Grant Crack): Okay, very good. Thank you, sir. I believe that all members have a copy of your presentation or information in front of them. So the floor is yours, sir. You have five minutes.

Mr. Ted Cheskey: Thank you so much for the opportunity to present to the committee. First, I would like to say that Nature Canada is the oldest national nature conservation organization in Canada. We have about 50,000 members and supporters. We are the national voice for Canada's 350 nature clubs and societies.

I want to recognize the impressive work that has gone into crafting Bill 66 and congratulate the committee on this proposed bill. That said, we support the Great Lakes Protection Act Alliance's submission and believe that there's still a little bit of work to do to increase the effectiveness of the act and eliminate potential flaws, including the removal of the exemption clause.

We support the amendments proposed by the alliance, but I would like, specifically, to focus my comments on clause 3 in the purposes of the act and on section 33 on agreements.

Clause 3 currently states, "To protect and restore the natural habitats and biodiversity of the Great Lakes-St. Lawrence River basin."

This clause would be much stronger by adding precise language recognizing the international significance of the Great Lakes-St. Lawrence River basin habitats for migratory species.

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The Great Lakes provide essential functions for migrating birds because of their geography and productivity. For example, natural coastal habitats and wetlands function as key stopover habitat for millions of songbirds, shorebirds and water birds to rest, feed and fuel up after long migratory flights, or in preparation for long migrations to Central and South America. Nearshore and offshore zones are essential habitat for tens of thousands of waterfowl each fall, winter and spring. Critical habitat for many of Ontario's threatened species is within Great Lakes wetlands and coastal areas.

These significant areas of bird concentration are recognized and mapped as part of the Important Bird and Biodiversity Area program, or IBA for short, of BirdLife International, delivered jointly in Canada by Nature Canada and Bird Studies Canada. Established in the 1980s and currently implemented in over 120 countries around the globe, IBA recognizes that many species of birds depend on very specific sites over the course of their annual life cycles for their survival.

Put simply, IBAs are the most important sites for birds on earth. Member countries of the European Union recognize IBAs and even offer them added protection.

Thirty-four of Ontario's 74 IBAs occur in or border the Great Lakes. Eighty-two species of birds reach national to global significance in these IBAs with regularity.

The degradation of these areas through habitat loss, industrialization, pollution and transformation from invasive species is a very real threat to our natural heritage and could tip the scale the wrong way for these species. With respect to clause 3, we support the following amendment, as proposed by the alliance: "To protect and restore the natural habitats and biodiversity of the Great Lakes-St. Lawrence River basin, including critical habitat for migratory birds, bats and insects, such as important bird and biodiversity areas."

Many of these globally significant sites are within view of the United States, reminding us of our shared species and shared responsibility to steward and protect them through our obligations in various conventions and laws. Over 80% of the bird species in Canada migrate beyond our borders every year as part of their annual cycles.

For this reason, we strongly support the alliance's recommendation to amend section 33 by adding three key interjurisdictional agreements to which Canada is also party: the 1916 Migratory Birds Convention; the 1981 Convention on Wetlands of International Importance, especially waterfowl habitat, also known as the Ramsar Convention; and the 1992 Convention on Biological Diversity adopted during the Earth Summit in Rio de Janeiro.

That ends my comments.

The Chair (Mr. Grant Crack): Thank you very much, sir. We appreciate them.

We shall start with the government side.

Mr. Joe Dickson: You sure?

The Chair (Mr. Grant Crack): Yes, I'm sure. I'll keep my schedule.

Interjection.

The Chair (Mr. Grant Crack): Mr. Dickson.

Mr. Joe Dickson: Thank you for the presentation. I'm certainly pleased to hear you mention, on the proposed act, both birds and biodiversity.

I'd like to just ask you a couple of questions, if I could. Your organization has really championed the need for our increased efforts throughout the Great Lakes. Do you think that this proposed legislation before us is, as a whole, a positive enough step in protecting the Great Lakes? That's part A. Part B is: Are there specific roles conservation volunteers see themselves playing in the implementation of the proposed act? That's all in consideration should it move forward. I wonder if I could have your comments on that.

Mr. Ted Cheskey: Thank you very much for the questions. First, I would like to reiterate that we are part of the Great Lakes Protection Act Alliance, and I think members of that alliance have all expressed their support for the act. Nature Canada, as the oldest nature conservation group in Canada, certainly supports the intent of the act, and thinks it is a very important and valuable step to provide the extra legislative attention that the

Great Lakes need. Clearly, what we're actually doing right now is not enough, so we think this is very timely and important legislation.

We also see organizations like ourselves—we're a national-level organization, but we work very closely with Ontario Nature, our provincial partner, and we certainly see a role for non-governmental organizations like ourselves in a number of places. Part of it is the council. We would certainly hope that the nature of conservation voices is reflected and captured in the council and also, certainly, on geographically specific initiatives, the GFIs.

Those initiatives—I'll just use the Important Bird and Biodiversity Area program as an example. We work with local groups to steward IBAs. Most of the IBAs are not within protected areas, so it's largely through stewardship efforts and working with landowners and working with local nature groups that we're able to achieve the sorts of results that we need to ensure that the integrities of the areas are maintained.

Having a new tool at our disposition, I think, is extremely important. I think the legislation in this bill is empowering to Ontarians. I congratulate you on that.

Mr. Joe Dickson: Do you also see that setting measurable targets and tracking performance to achieving targets is extremely important or not important?

Mr. Ted Cheskey: Targets are extremely important, absolutely, and I think that birds are a great example of something that—I hope that, through my comments, you can see the narrative. I think that needs to include biodiversity and certainly go well beyond water quality issues. Targets for that are certainly important as well.

Mr. Joe Dickson: Thank you very much. I appreciate it.

The Chair (Mr. Grant Crack): We shall move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Thank you very much for dialing in. Sometimes it's not the easiest. I certainly appreciate your efforts to share your message, Ted.

One thing in particular that jumped out of your presentation for me is the IBAs that Nature Canada has been involved in recognizing and defining. I thank you for the information, whereby you shared that 34 of Ontario's 74 IBAs occur in or border the Great Lakes, extending over approximately 25% of the Ontario Great Lakes coastline. Because of that, I also very much appreciate the recommended amendments, "To protect and restore watersheds, wetlands, beaches, shorelines and coastal areas of the Great Lakes-St. Lawrence River basin," and the next one in particular, "To protect and restore the natural habitats and biodiversity of the Great Lakes-St. Lawrence River basin, including critical habitat areas for migratory birds, bats and insects, such as important bird and biodiversity areas."

That jumped out at me, Ted, and my question is: How do you feel about the possibility of industrial wind turbines being placed in the Great Lakes?

Mr. Ted Cheskey: Being placed in the Great Lakes or along the Great Lakes coastline?

Ms. Lisa M. Thompson: Both: along and in.

Mr. Ted Cheskey: Thank you for the question. I know it's one that has been pondered for many, many years now, and I think there is a current moratorium on it.

Our position with regard to industrial wind turbines: We are opposed to wind turbine developments within IBAs. I think the previous Ontario commissioner of the environment, Gord Miller, included as part of his report in 2012 that he thought IBAs should be exclusion zones.

We've tried to work with the industry, and continue to do that, as we are not an anti-wind group by any means. We feel that green energy is extremely important, and renewable energy is extremely important. But we just don't think it should happen anywhere and everywhere. There are places where biodiversity conservation is the predominant issue.

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IBAs kind of define themselves this way. It's possible there might be one or two where it's not an issue, but generally, the coastlines are extremely important places, stopover sites for birds, migratory corridors, breeding sites, staging sites, all of those things. And not just birds—as I mentioned, insects and bats as well. That said, there probably are areas, anthropogenic landscapes, where the impact is manageable and can be mitigated, but generally, certainly the natural areas and areas within IBAs—we've been trying to have those areas excluded from projects.

As far as offshore sites go, it's a very complicated matter, and I think we still don't really know enough. There are—

Mr. Grant Crack: Thank you very much. I hate to interrupt, but we went over time on that one.

Mr. Ted Cheskey: No problem.

The Chair (Mr. Grant Crack): Mr. Tabuns from the NDP.

Mr. Peter Tabuns: Thank you very much for your presentation today.

Ted, I just wanted to ask about your recommendation that the province include the alliance's recommendation to section 33, and that's including the Migratory Birds Convention, Convention on Wetlands and Convention on Biological Diversity. Why do you see it as important to have that included in the text of the bill?

Mr. Ted Cheskey: Well, thank you. It does mention some agreements, but these are three agreements that I think add substance to the biodiversity intent. The fact that the Great Lakes are of extreme importance for migratory species, for Ontario, and the fact that the migration of birds is something that really links us to the United States—the Migratory Birds Convention Act that came out of the migratory convention is the first environmental piece of legislation. I think there's a really good opportunity here to reinforce the commitment to make things like the Migratory Birds Convention Act, the Convention on Biological Diversity, and Ramsar more meaningful and real, especially the convention parts. These areas are identified, and I think every opportunity we have to make them meaningful and real, we need to

do so. Incorporating them into legislation here is something that will obligate us and the province to consider them as this enabling legislation is implemented.

Mr. Peter Tabuns: Thank you very much.

Mr. Ted Cheskey: You're welcome.

The Chair (Mr. Grant Crack): Thank you, Mr. Cheskey, for joining us and sharing your thoughts this afternoon. We appreciate it.

Mr. Ted Cheskey: Thank you so much for the opportunity, and best of luck.

FRESHWATER FUTURE

The Chair (Mr. Grant Crack): Ms. Nancy Goucher, I believe, has walked in from Freshwater Future. We welcome you and we apologize for shifting things around a little bit, but we were ahead of schedule. You have five minutes for your presentation followed by nine minutes of questions.

Ms. Nancy Goucher: Okay, great. Thank you so much. As you guys heard, I'm Nancy Goucher with Freshwater Future. While I've only been in my current position for less than a month, I've been working on the Great Lakes Protection Act for over two years through my previous position at Environmental Defence.

Freshwater Future's mission is to ensure a healthy future for our waters in the Great Lakes region by building the capacity of grassroots groups and ensuring that we have good policies in place. My comments on the Great Lakes Protection Act reflect both Freshwater Future's focus on grassroots, and my seven-plus years of experience working with different sectors to protect water.

To begin, in terms of recommended amendments, Freshwater Future endorses the submission put forward by the Great Lakes Protection Act Alliance. We would like to emphasize the importance of removing the exemptions clause as we see this as a fatal flaw in the bill in that it could undermine things like accountability and transparency, key features of the legislation.

Now on to the positives. I'd like to point out three aspects of the bill that I think are really critical in protecting the Great Lakes. First, the purpose of the bill recognizes that Ontario needs to do more to protect the Great Lakes. I've heard some people claim that Ontario doesn't need this bill; that we have lots of other legislation and agreements in place to address water. I'd respond by saying that today's problems are complex and that new problems are overwhelming our old solutions. I'll give you two examples.

The first is microplastics. Microplastic is an increasing source of pollution building up in the Great Lakes. For example, researchers have found over a million microbeads per square kilometre in Lake Ontario. Microplastics are a complicated issue to address because there are so many different sources of plastic, from microbeads to litter to industrial spills. An important step forward is to better understand how much plastic is actually there and the pathways for its introduction. That's why I think

section 7 of the bill, which requires the minister to ensure that monitoring and reporting programs are established and maintained, will be a critical piece of the solutions puzzle.

Another example of how things have gotten increasingly complicated is algae. In the 1970s, Lake Erie was declared to be dead because of extensive algal bloom problems. Governments of all levels stepped up to the plate and took action to address the biggest sources of phosphorus, which was declared the major problem. Phosphorus in municipal sewage discharges was reduced by 82%, and the amount of phosphates allowed in laundry detergents was restricted. The result was that things dramatically improved and people were able to swim and fish in Lake Erie once again.

But now algal blooms are back, and 2015 was the worst year ever on record in terms of the size of the blue-green algae. What's worse is that this is part of an overall trend and things are getting worse. We're at a point where the drinking water for 11 million people is under threat. Last year, 400,000 people in Toledo, Ohio, and on Pelee Island were under drinking water advisories because of algal bloom near their drinking water intakes.

Fixing the algal problem this time won't be as easy as doing one or two things to solve this to address the biggest sources. These days, phosphorus is coming from all sorts of different places and we're going to need to be able to address those little bits of sources from all over the place. That's why I think the design of the Great Lakes Protection Act is so important. It actually acknowledges and addresses the complexity of current and emerging challenges.

One of the ways it does this is by acknowledging the role of local communities in developing and implementing solutions, which brings me to my second point.

The Great Lakes Protection Act, through the geographically focused initiatives tool, recognizes that it is at the local, community level where action can be taken to positively impact the health of our waters. Freshwater Future sees GFIs as an important tool that can actually drive local action. It can inspire collaboration between the various interest groups in a community, including farmers, First Nations, tourism, anglers and all these different groups, and the numerous checks and balances built into the process will ensure that local communities support the actions that would be enabled by the province.

My third main point is that the guardians' council is an important tool in helping to deal with the complexity of water issues. It can facilitate discussions between various stakeholders that, over time, can build trust and respect. This is what we really need to move things forward, as we've seen in the source protection committees. This forum can also help with identifying new and emerging challenges, which can be really helpful in addressing problems in advance, so being more proactive than reactive. The guardians' council can also help establish a common approach to how we're going to address water problems.

Have you seen the movie *Finding Nemo*? There's a part where all the fish got caught in a net and they were all swimming in different directions. Finally, Nemo, through his leadership, said, "Everyone should swim down the net." Everyone swam in the same direction, and they made it to the bottom and they all escaped. The guardians' council can be an important piece in trying to get various groups on the same page and swimming in the same direction.

The Chair (Mr. Grant Crack): Okay, thank you very much. I apologize for cutting you off. We just went a bit over time as well.

We'll start with the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: You know, actually, I really appreciate your comments that you've shared today. You certainly bring a lot of passion, but at this time we don't have any questions.

The Chair (Mr. Grant Crack): Okay, thank you. Mr. Tabuns?

Mr. Peter Tabuns: Yes. Thanks very much for the presentation. I want to go back to your concern with section 38(1)(l). That's the exemption clause. Can you tell us why, in your words, it's a fatal flaw?

Ms. Nancy Goucher: Well, there are lots of things in this bill that I've pointed out—the tools and the pieces of it and some of the timelines around reporting, for instance. If there's an exemption clause that allows someone to sort of get around any of those requirements that are set in the bill, I think that undermines some of the things that we've been working towards in order to improve the bill.

Mr. Peter Tabuns: Okay. Thank you. I don't have further questions.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. We shall move to the government. Ms. Mangat.

Mrs. Amrit Mangat: Welcome to Queen's Park. Great presentation.

Ms. Nancy Goucher: Thank you.

Mrs. Amrit Mangat: I understand that your organization has championed the need for increased efforts to protect the Great Lakes. Do you think that the bill which is before the committee today on the whole is a positive step in protecting the Great Lakes?

Ms. Nancy Goucher: Absolutely. One of the things that I've been working on is Lake Erie, specifically, and so one of the pieces of the bill that I also really like is the requirement to set targets around nutrients. This is really important. For example, the Great Lakes Water Quality Agreement has been undergoing a process of setting nutrient targets, as well. I found that to be a comparable process because what it meant is that they did consultation around what the target should be, and everyone pretty much agreed on those targets. That means that that discussion about what those targets are is set, and now they can move on to implementation. So it's a really important piece of the process in terms of solving issues like Lake Erie algae.

Mrs. Amrit Mangat: Do you think that it's important to take action through geographically focused initiatives, like those proposed in the act, that can help bring people and local communities together?

Ms. Nancy Goucher: Yes, absolutely. I think that having this tool available that is endorsed by the province, and perhaps supported by the province, can be really effective at bringing some of these different groups together. Having conversations at a table between farmers and people who care about water and people who care about tourism—to have these discussions and find out that they actually have much more in common than what divides them. So I think that by establishing that common interest, they can develop common solutions and start to move forward.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Grant Crack): Okay. Thank you very much. We really appreciate you coming before committee this afternoon and sharing your thoughts.

Ms. Nancy Goucher: Thank you.

The Chair (Mr. Grant Crack): Have a great afternoon.

Is Mr. Duncanson here from the Georgian Bay Association, by chance? Ms. Bonnie Fox from Conservation Ontario?

We are a few minutes ahead of schedule. Why don't we take a seven-minute break and allow members to—

Ms. Lisa M. Thompson: Stretch?

The Chair (Mr. Grant Crack): Stretch. Good word. So seven minutes from now—maybe eight.

The committee recessed from 1522 to 1530.

The Chair (Mr. Grant Crack): I'd like to call the meeting back to order.

GEORGIAN BAY ASSOCIATION

The Chair (Mr. Grant Crack): I believe Mr. Duncanson from the Georgian Bay Association is here. Thank you, sir, for coming early, as we are a bit ahead of schedule at this point. We welcome you. You have five minutes followed by nine minutes of questioning from the three parties. Welcome, sir.

Mr. Bob Duncanson: Thank you very much, Chair Crack and the rest of the committee. My name is Bob Duncanson. I'm the executive director of the Georgian Bay Association. The Georgian Bay Association is an umbrella group representing 19 communities along the eastern and northern shores of Georgian Bay, stretching from Honey Harbour in the south to the North Channel. We've been advocating on behalf of our landowning members since 1916, and we represent about 3,200 properties with approximately 18,000 individuals.

The Great Lakes region is of immense importance to Ontario, to Canada and to North America. In their 2014 report *Low Water Blues*, the Mowat Centre cited that the annual economic output for the region was US\$4.9 trillion, placing it amongst the largest economic regions in the world.

One of the main engines behind this economic success is water. The Great Lakes combined contain the earth's second-largest single supply of surface fresh water.

In the Georgian Bay context, property owners alone contribute over \$100 million annually to the local, provincial and federal economies through goods and services purchased and taxes. When you add in campers, boaters and fishermen to this mix, the number becomes significantly higher. It is the water in Georgian Bay that brings us there.

Without water in sufficient quantity and quality, this economic input would be threatened. The Great Lakes are Ontario's golden goose. It is critical to our future well-being that we nurture them and protect them so that they'll keep giving back.

The Great Lakes are under great and unprecedented stress. Climate change is resulting in frequent one-in-100-year storms, interspersed with periods of drought. Nutrient loading is causing blue-green algae outbreaks, not just in Lake Erie, which we've all heard about, but also in other parts of the Great Lakes, including relatively pristine Georgian Bay.

Terrestrial and aquatic invasive species like phragmites, Eurasian milfoil, Japanese tangleweed, zebra and quagga mussels, and round gobies present their own challenges, not to mention Asian carp.

Chemicals are an emerging concern. Chemicals that septs and municipal treatment facilities cannot remove have an unknown long-term impact on ecological and human health.

There is a perfect storm brewing in the seemingly placid waters in the Great Lakes.

The Georgian Bay Association operates in a part of the province where there are no conservation authorities or source protection committees; where municipalities, being rural in nature, have limited capacity to initiate, let alone run, programs that will protect the Great Lakes. Most initiatives of this kind are initiated by property owners working through non-governmental organizations like ours.

We believe that the Great Lakes Protection Act, with its guardians' council and geographically focused initiatives, will provide a framework that will improve citizen engagement with government at all levels and help us to be more proactive in our efforts to protect our part of the Great Lakes.

Some detractors may argue that the Great Lakes are a binational resource and therefore it should be up to the federal government to do the heavy lifting on this file. In reality, we need all levels of government, together with NGOs and the public at large, to work together on protecting the Great Lakes. This is how it works in the US, and it works well.

I have heard other detractors state that the province has sufficient pieces of legislation in place to do what Bill 66 is proposing. With respect, I suggest that the various provincial ministries, as a whole, lack a Great Lakes focus.

Bill 66 will align priorities and decision-making across ministries and start to set targets, all of which will give the protection of the Great Lakes the profile it deserves.

Our hope is that you, as legislators, and your colleagues in the Legislature, will support the Great Lakes Protection Act and help protect this life-sustaining resource for many generations to come.

The Chair (Mr. Grant Crack): Thank you very much, sir. I appreciate that.

We shall begin with the PCs. Ms. Thompson.

Ms. Lisa M. Thompson: Thank you very much, Chair. Thanks for being here. I apologize for coming in in the middle of it all. We certainly recognize and appreciate anyone who comes forward to exercise their voice. We all care about our Great Lakes, absolutely. I live just off the border of Lake Huron.

Mr. Bob Duncanson: We are all within driving distance of a Great Lake, if not walking distance.

Ms. Lisa M. Thompson: Yes, exactly; you've got it.

The Georgian Bay Association has been very active. I remember that, a couple of years ago, Garfield Dunlop arranged a meeting with many of your representatives. That was time well spent.

Mr. Bob Duncanson: He's been a good supporter.

Ms. Lisa M. Thompson: Yes, very much so.

I find it interesting: Everybody is honing in on the exemption, and that's the number one problem or consensus that we're hearing. Has your association thought of any specific, tangible example of what this exemption might do to have a negative impact on the Great Lakes?

Mr. Bob Duncanson: Exemptions are always, when they're left nebulous, as they are in this piece of legislation, worrisome to us. One of the battles that we're fighting in the Georgian Bay Association is on open-net technology used by the aquaculture industry. Some 52 tonnes of phosphorus are being introduced into our Great Lakes annually by a for-profit industry. Our concern would be that a minister might choose to try and exempt that industry from bringing in new technology.

Ms. Lisa M. Thompson: Yes, very good. That's exactly what I was looking for. Thank you for that.

I'm thinking about all the current pieces of legislation that are already in place. I'm sure you can appreciate that we have a concern about over-layering and redundancy, if you will, handcuffing. But in terms of our legislation, you said that it's refreshing to have renewed interest in the Great Lakes, and I share that with you. But in terms of the GFIs, are you concerned at all that those GFIs could be potentially directed by one body as opposed to individual or more regionalized groups?

Mr. Bob Duncanson: We look at it as a real opportunity for bottom-up leadership. On Georgian Bay, as I mentioned, it's a pretty scattered group of municipalities with limited capacity. It's even a scattered group of NGOs. We think that there's tremendous opportunity to collaborate.

I'll use another example: water testing. Our members who are in their own community would love to plug into

a framework that would allow them to go out and do some water testing, be the arms and legs for the province, which doesn't have arms and legs, who can get out into the field, but we need to plug into a bigger framework. This is where I think a GFI could really benefit us, where we could pull together and say, "Okay, let's work with our municipal partners; let's work with the province, with the MOE, the MNR; and figure out what we should be testing, and put in a protocol that the average citizen could do the legwork and roll it up."

We look at it as a bottom-up process. I suppose if you looked at it from the top down there could be a concern that you could have Big Brother trying to direct things. We would certainly be the first to blow the whistle if we felt that we were being dictated to. But so far, we've been very pleased with the collaborative approach that, certainly, the Ministry of the Environment and Climate Change has taken on this.

Ms. Lisa M. Thompson: Very good. Again, thank you for your commitment to protecting and restoring our Great Lakes.

Mr. Bob Duncanson: Not at all. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to Mr. Tabuns from the NDP.

Mr. Peter Tabuns: Mr. Duncanson, thank for being here today. Ms. Thompson again has asked the question that I would have asked. That was about the exemption clause. There seems to be a pretty clear position on the part of all the stakeholders that that exemption clause is highly problematic.

Mr. Bob Duncanson: Yes. It definitely should have definition. It can't sit there, I think, in its wide-open—there have to be parameters put around it, I think, if it's going to stay there at all.

Mr. Peter Tabuns: Okay. Thank you very much.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. We'll move to the government. Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you for your presentation. I'm from the riding of Barrie.

Mr. Bob Duncanson: Excellent.

Ms. Ann Hoggarth: I have to tell you that my great lake is Lake Simcoe.

Mr. Bob Duncanson: Yes, and you feed into us.

Ms. Ann Hoggarth: Yes, I know. The other great lake that is very important to me is, of course, Georgian Bay and the rest of the lake, because that's where I was brought up and where we do our swimming and boating and all of those things.

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I see that you are concerned about the levels of the lake. I have seen in the past couple of years some really difficult times for boat owners and marine owners and cottagers in that regard. But, on the whole, your organization has championed the protection of the Great Lakes. Do you think this legislation, with a couple of tweaks, will be very important to the protection of the Great Lakes?

Mr. Bob Duncanson: Absolutely. I wouldn't be here today if I didn't feel that. I think it's really important for

all ministries to look at how they can play a role to support the protection of the Great Lakes. Our perception, as citizens looking up to the tower around here, is that sometimes ministries have other priorities. They should try and use the Great Lakes as one of the filters that they look through when they're making decisions that will impact the Great Lakes because, as I say, at the end of the day, if you look at what drives Ontario and what's driving people to come to Ontario—when people move to Canada, they look at the five blobs of blue on their world atlas, and there's a reason why they want to come in to the GTA or in to southern Ontario, and it's water. Water is paramount. If we don't protect it, we're our own worst enemy.

Ms. Ann Hoggarth: You're absolutely right. We can live longer without food than we can without water.

The other question I wanted to ask is: Do you see the value in having the Great Lakes Guardians' Council meet often to discuss Great Lakes issues?

Mr. Bob Duncanson: Yes, with the proviso that there's healthy public input into that guardians' council, so it's not top-down. It really has the ability to be both ways.

Ms. Ann Hoggarth: Do you believe there should be targets and reviews of those targets?

Mr. Bob Duncanson: I think that there are certain areas where targets are fairly important. I'm pleased to see the MNR target on wetland protection. That one certainly resonates for the eastern side of Georgian Bay, where we have some of the best wetlands in the Great Lakes system that are threatened. We, again, need to start taking care of that. I'm not convinced that the MNR have had that focus enough.

Ms. Ann Hoggarth: Okay. Thank you so much for your presentation.

The Chair (Mr. Grant Crack): All right. Thank you very much. I appreciate you coming before committee this afternoon and sharing your thoughts.

Mr. Bob Duncanson: Thank you.

The Chair (Mr. Grant Crack): You're welcome.

CONSERVATION ONTARIO

The Chair (Mr. Grant Crack): I'm just going to go through the list. Is Ms. Bonnie Fox from Conservation Ontario here yet?

Ms. Bonnie Fox: Yes.

The Chair (Mr. Grant Crack): Okay, great. So next we have—and we're a little bit early, but moving right along—Ms. Fox, from Conservation Ontario. We welcome you. You have five minutes to address the committee, followed by nine minutes of questioning.

Ms. Bonnie Fox: Okay; thank you very much. The following comments are coming from Conservation Ontario as the network of the 36 conservation authorities in Ontario. Conservation authorities are local watershed management agencies that deliver services and programs to protect and manage water and other natural resources.

The Great Lakes are an essential resource to Ontarians' social, economic and environmental well-being. Conservation Ontario strongly supports the purpose of the proposed Great Lakes Protection Act, as well as the expanded description of the purpose, that being to protect and restore the ecological health of the Great Lakes-St. Lawrence River basin and to create opportunities for individuals and communities to become involved in its protection.

The Great Lakes Protection Act provides new tools for the province of Ontario to continue to be an effective partner in Great Lakes protection. In particular, conservation authorities, as public bodies under the act, are pleased to see that it enables setting measurable targets for nearshore areas to achieve Great Lakes objectives; that it enables coordinated actions by various watershed stakeholders; that it enables building and enhancing existing tools and programs to implement local actions for broader Great Lakes benefits; that it enables additional science research, monitoring and reporting; and that it enables building upon existing models for efficiency, and those are both watershed models and binational.

The following comments focus on a couple of key issues and amendments that are intended to strengthen the Great Lakes Protection Act. Integrated watershed management enables a suite of interconnected issues to be addressed collectively and efficiently, and the proposed Great Lakes Protection Act enables this type of integrated approach. However, to ensure that the act is implemented in a truly integrated manner, it should ensure comprehensive monitoring and facilitate collaboration.

It is recommended that the list of monitoring and reporting commitments in section 7(1) include hydrology and biological communities: hydrology because it plays a significant role in ecological health, and biological monitoring such as fish populations, wetlands and benthic invertebrates, because they are indicators of water quality and associated ecosystem impacts.

An additional amendment should indicate that this monitoring and reporting should be done on a watershed basis, which would be neatly nested within and consistent with the focus of the legislation on the ecological health of the Great Lakes-St. Lawrence River basins, which are the larger watersheds.

In addition, to facilitate collaboration, it is suggested that section 34(2) be amended to include a requirement for the sharing of data, in addition to sharing documents, as necessary to deliver on geographically focused initiatives, and that part IV, the target-setting section, include a similar requirement for sharing of documents and data.

The second key issue is around funding. To ensure that the implementation of activities under the proposed Great Lakes Protection Act is successful, a clear and efficient plan for funding these activities is required. The proposed Great Lakes Protection Act does acknowledge this need in section 19(2)8, which requires a strategy for financing the implementation of an initiative.

It is suggested that amendments be made so that a proposal for an initiative—that's part V in section 12,

and the target-setting in part IV—is required to include a strategy for financing as well. These activities could hold significant financial and human resource implications for the public bodies involved, and funding could be a major constraint to success.

Just in closing, Conservation Ontario would like to thank the standing committee for the opportunity to speak to you today and to submit comments on the act. The conservation authorities look forward to assisting the province in achieving Great Lakes protection through providing support and advice, and serving as operational science-based delivery agents.

The Chair (Mr. Grant Crack): Thanks very much, Ms. Fox. I appreciate that.

We shall start with the third party, the NDP. Mr. Tabuns?

Mr. Peter Tabuns: Ms. Fox, thanks for being here and presenting this afternoon. When you look at the bill, and the conservation authorities have looked at the bill, to actually have an impact on the Great Lakes, what sort of funding level are we talking about?

Ms. Bonnie Fox: The way that the act is designed, it's up to the local public bodies—and the province, if they're involved—to determine what the scope is and how it's being used, so I think it's difficult to put a number on something like that. That's why I think it's important that, as part of any proposal or implementation of an initiative, it have a financing strategy associated with it.

Mr. Peter Tabuns: And if there is no financing strategy and no further allocation of funds to make this bill a reality, what do you think the impact would be?

Ms. Bonnie Fox: I don't think it would help the Great Lakes and the efforts to protect Great Lakes water quality.

Mr. Peter Tabuns: Okay. Thank you.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. To the government side: We shall go with Ms. Mangat.

Mrs. Amrit Mangat: Welcome to Queen's Park.

Ms. Bonnie Fox: Thank you.

Mrs. Amrit Mangat: Great presentation. Thank you very much for your support. I recognize the important work your organization has been doing—and is doing, as a matter of fact. One of your organizations, the Credit Valley Conservation Authority, is located in my great riding of Mississauga–Brampton South. A couple of weeks before, I was there at the launch of building a trail from Orangeville to Port Credit in Mississauga. It was a great event.

Ms. Bonnie Fox: Great.

Mrs. Amrit Mangat: We have a close working relationship with you, your organization. As you know, this is the third version of the bill. It has been heavily consulted, and each time we changed the bill, it has been improved and strengthened.

Having said that, your organization has asked to be invited to the Great Lakes Guardians' Council, and our government revised that previous bill to require this. Am I right?

Ms. Bonnie Fox: Yes. We appreciate that.

1550

Mrs. Amrit Mangat: Thanks.

Can you tell us what other aspects of the bill you believe conservation authorities have expertise in to support our government?

Ms. Bonnie Fox: Because of the watershed management basis of the business of the conservation authorities, they're really a critical partner for Great Lakes protection. We look at the Great Lakes—it's the bottom of the drainage basin, right? All of our watersheds are draining into the Great Lakes, so what's happening in our watersheds—the management actions and best management practice that we decide to implement with the local partners, that has an effect on what's happening with the Great Lakes.

For that reason, the authorities are a critical partner. They're critical as well for the research that they do on a watershed basis that then—we'd like to partner with the province and with the federal government to take that science and help us to make good decisions locally. That's another key area.

Stewardship activities: That relates back to the best management practices. That's critical. And just for the target-setting, that was an important piece for us, because we need a target in the nearshore area of the Great Lakes as watershed managers because we then are able to measure whether our actions are effective in having a change and a benefit to the Great Lakes. So having those targets watershed-based and being able to measure effectiveness I think is a really important piece of the legislation.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the official opposition. Mr. MacLaren.

Mr. Jack MacLaren: Could you give us examples of what problems you would see, you would be trying to fix, to get the quickest and biggest improvements to water quality in the Great Lakes through this bill?

Ms. Bonnie Fox: Through this bill? I think having some action as geographically focused initiatives on what you might call priority watersheds, in terms of those that are having impacts on nutrient contributions to the Great Lakes. I think a focus on the part of the province to encourage those watersheds to engage in utilizing the tools that are available in the legislation could have an impact. I think the monitoring and the reporting on what is—already a lot of good work is being done in the Great Lakes program, both provincially and federally. Getting that information out to others in terms of effect—

Mr. Jack MacLaren: I meant something more specific. Do you know of areas that need to be fixed?

Ms. Bonnie Fox: Yes. The one thing that I'd like to say, though, is that too much of a focus on only what we think are the problem areas doesn't help us in terms of making improvements across the basin, basin-wide. So the geographically focused initiatives need to be learning

beds—and then transfer of the good tools across the province. I think that's a really important aspect.

I lost sight of what your prompt was there.

Mr. Jack MacLaren: Do you know of a specific problem that needs to be fixed?

Ms. Bonnie Fox: Water quality and then a focus on green infrastructure and stormwater management in the highly urbanizing areas. The key areas are the Thames River and the greater Golden Horseshoe, because of the intense urbanization that is going on.

Currently the federal government is leading the development of a nearshore framework, where they are going to be assessing the nearshore areas and looking at where are the priority areas to protect and where are the priority areas because of threats. I think that exercise will let us know—certainly, drinking water is a big issue in terms of the Great Lakes. That's an example of a threat that we need to pay careful attention to. Obviously, Lake Erie is the most threatened, but shortly there behind is Lake Ontario with cladophora.

Mr. Jack MacLaren: Thank you.

The Chair (Mr. Grant Crack): Okay. Thank you very much, Ms. Fox, for coming before the committee this afternoon and sharing your thoughts. I appreciate it.

Ms. Bonnie Fox: Okay; thank you.

THAMES RIVER ANGLERS ASSOCIATION

The Chair (Mr. Grant Crack): As we continue, just a bit ahead of schedule, I believe there's a little change to the agenda as we have a teleconference at 4:15 p.m. I believe Mr. Huber is here as president of the Thames River Anglers Association. We welcome you, sir. We appreciate your coming on before your scheduled time. You have five minutes to make your presentation to the committee, followed by nine minutes of questioning.

Mr. Robert Huber: Wonderful.

The Chair (Mr. Grant Crack): Welcome.

Mr. Robert Huber: Good afternoon, the Honourable Glen Murray, members of the Legislature and the standing committee, and my fellow speakers. My name is Robert Huber and I am the president of the Thames River Anglers Association. We're a grassroots organization of volunteers that has worked diligently since 1986 to improve the overall health of the Thames River and protect a diverse and sustainable multi-species fishery. We accomplish this through a combination of stream-based rehabilitation projects and hatching and releasing trout and walleye into the rivers, along with encouraging everyone, from youth to our city councillors, members of Parliament and corporations, to enhance and protect those rivers. It has been our experience that ecosystem-based stewardship programs dramatically improve the quality and sustainability of recreational, aboriginal and commercial fisheries that rely on those rivers for clean water, migration and spawning.

The Thames River itself is a nationally designated heritage river, having a rich and historic role as a temporary and seasonal route for the First Nations and Métis

people. Its watershed covers over 5,800 square kilometres and it supports over 90 species of fish, along with numerous aquatic species that have been listed as threatened, endangered or of special concern, which includes 12 fish species, six reptiles and seven mussels.

On behalf of our organization, we would like to formally commend those involved in drafting Bill 66 by communicating our full support of the purpose, policies and expectations that have been outlined to protect and restore the Great Lakes and St. Lawrence basin. It's also encouraging to see that first reading was very well supported by the Legislature, and we hope that this momentum eventually results in programs and initiatives that will ultimately determine its overall success.

People who enjoy the outdoors and are actively engaged in projects to enhance the environment see firsthand the impacts of climate change and pollution. Efforts to actually reverse those problems are not without their complexities and take long-term dedication, hard work, and support from all levels of government to make any sort of noticeable progress.

Should this bill pass all future readings and is actually ratified, it's our intention to work with our local MPP to submit proposals for initiatives that, with appropriate scientific evidence and application of Bill 66, could yield measureable improvement in the health of the Great Lakes-St. Lawrence River basin. This would include, but is not limited to, requesting that the province develop and implement a strategy to completely eliminate the practice of releasing waste water by municipal sewage treatment facilities that has not been fully treated during extreme rain events. Urban centres in Ontario are dumping billions of litres of undertreated waste water directly into the rivers without oversight or accountability for those actions, and it absolutely must stop.

We would also like to see the province undertake a full study and development of an updated decision framework to determine the value and environmental impact of aging recreational-purpose and hydroelectric dams. Many of these structures are reaching the end of their expected lifespan and have fallen into a state of disrepair or been damaged by floods. Deadbeat dams have been proven to exacerbate the growing problem of toxic blue-green algae in the Great Lakes while destroying upstream habitat and interfering with or blocking native fish species migration. Frequent or annual draw-downs of dams have also been shown to cause spikes in the releases of greenhouse gases, thereby contributing to global warming. If the bill passes, we hope that under no circumstance should municipal, provincial or federal taxpayer money be used to repair or build structures that directly contravene this act.

It is also imperative that the province continue to support and fund the community hatcheries programs, along with other stream and habitat stewardship initiatives. Finding people who actually volunteer their time to improve a fishery, build a viewing platform or plant trees along a stream is difficult enough without having to worry if the funding or support for these programs will

suddenly come to an end. These are good programs that are making a difference in Ontario, and they need to continue to be a priority for the province.

1600

Hopefully this standing committee and our Legislature will make certain that Bill 66 is not only exemplary in its purpose but also includes the backbone and funding channels for necessary projects, along with the teeth required to hold those accountable for interfering with its mandate. Edward Abbey, who was a champion of environmental causes, once said, "Sentiment without action is the ruin of one's soul."

The Thames River Anglers sincerely appreciate the efforts made by the minister, Legislature and members of the standing committee to protect and restore the Great Lakes through the drafting of and future efforts to pass this bill.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Huber. I appreciate your comments. We will start with the third party, NDP. Mr. Tabuns.

Mr. Peter Tabuns: First of all, thank you very much for taking the time to come here. We really appreciate it.

The dumping of waste water: Are you, as anglers, seeing the direct impact of that on the waters that you are fishing in?

Mr. Robert Huber: Absolutely.

Mr. Peter Tabuns: And this is a frequent occurrence that you're seeing? It doesn't have to be too frequent; I'm just curious.

Mr. Robert Huber: I can be pretty precise about it. Just in the city of London on the Thames River: In the last 12 years, the average amount of waste water dumped was 181 million litres per year of untreated waste water and 574 million litres of only primary-treated waste water, which just has the solid masses removed.

That waste water eventually goes into Lake St. Clair, down the Detroit River and into Lake Erie. We all know what then happens there.

Mr. Peter Tabuns: Okay. You've answered the question.

Can you tell me the relationship between the dams and the growth of algal blooms? This is the first time I had heard this.

Mr. Robert Huber: Absolutely. When you impound a river, that river is no longer moving, and the temperature of the water increases. In the city of London, two of those waste water facilities that released the untreated waste water are actually upstream of our dam that we have in the city. It's not working right now; it has been broken for eight years. When it was working, it would capture all that waste water, keep it in the pond for the summer, and let it flourish. It creates a eutrophic zone of basically oxygen-depleted water, and then at the end of the summer: Open up the gates and flush it all down. That's what the city does with it right now.

Mr. Peter Tabuns: Okay. I really appreciate that; thank you. I don't have further questions.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. We'll move to the government: Ms. Kiwala.

Ms. Sophie Kiwala: Thank you very much, Robert, for coming here today to speak with us. We really appreciate it. Great presentation—it's wonderful what people can pack in in five minutes. Good job.

I do also want to commend you for the rehabilitation work that you have done, and also I'd like to acknowledge you for the work that you've done in including First Nations in the consultations that you've done. Fabulous job.

I'm wondering if you can talk to me a little bit about how the province might be able to involve anglers in the implementation of the bill, should the bill go forward.

Mr. Robert Huber: Absolutely. I did read a bit about the role of the guardians within Bill 66. I don't know if there will be an open casting call, but we're ready. If anything, we're standing there already with our feet in the river. We can put a suit on, if we have to.

The other side of it is that within southwestern Ontario, we have what are called fisheries management zones, which were the split-up of the region with the regulation changes in the early 1990s. We don't have a fisheries management zone council for region 16, which is pretty much all of southwestern Ontario, so it is very hard to have a stakeholder voice in policy change, projects and things that are going on that affect fisheries, water quality and habitats within southwestern Ontario. We've tried our best, but it's just not getting any traction to actually have that formed yet.

Ms. Sophie Kiwala: Are there any other additional details that you can give to us or priority actions that you would suggest that the province take to help protect the Thames River?

Mr. Robert Huber: What I really liked about Bill 66 was that it wasn't just focused on the lakes, and that there's an understanding of the role that the tributaries and the rivers take in the health of the lakes themselves. It makes a lot of sense.

I think that if the province really reaches out to each of the—if you look, there's a similar group of conservation and angling-type groups on every single major river system within Ontario: Credit River, Grand River, Thames River. We all have groups like this. A lot of them just don't know when to speak up and share their thoughts and comments. Those are really the people who are going to be out there doing a lot of the projects and willing to actually volunteer their time to make it happen.

Ms. Sophie Kiwala: Great. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We will move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: I certainly was looking forward to your presentation. I appreciate it very much.

In terms of a step going forward, listening to your comments about waste management, right now it's my understanding that urban centres just have to report how many times they have to dump as opposed to the quantity that they dump. Are you in agreement with that, or do you know anything more?

Mr. Robert Huber: It varies from urban centre to urban centre. There has obviously been some recent news

this summer about Toronto being expected to provide a little bit more timely notice, as in the same day, when they do a release like that, because it's a matter of public health and drinking water quality. In the city of London, it usually takes about two weeks for them to publish it on their city site, and that's where we were able to pull 12 years' worth of records from. But it's a bit of work to find it, and it should be a lot—if that event actually takes place, people should know right away.

Ms. Lisa M. Thompson: Very good.

I was struck by the fact that you said that it's tough to get a forum struck in region 16, in southwestern Ontario. Do you have any observations on why it's not happening?

Mr. Robert Huber: We've been trying for 10 years to get that fisheries management zone council, have it take place. My understanding is that it's such a wide geographic area that it's a little bit more complicated than maybe making something like that in a northwestern Ontario community. That would probably be the most easy way to put that. We're hopeful that it will eventually happen before things change again, but by all means, we have to find our own ways to get our voice up and spoken.

Ms. Lisa M. Thompson: I have a number of fisheries in my riding of Huron–Bruce, so I'm interested in that. They do a great job for us.

I appreciated your comments very much. My last question is, would you be willing to share or give us a copy of your remarks for our records?

Mr. Robert Huber: I was going to submit them officially. I don't know if there was an opportunity to do that: comment and provide notations, things like that?

Ms. Lisa M. Thompson: Sure.

The Chair (Mr. Grant Crack): Thank you very much for coming before the committee, Mr. Huber. We have a vote, so we will recess at this point. Again, thanks for coming before us.

This meeting is recessed until the vote. I encourage all members to go quickly: You've got two minutes and 50 seconds to get there.

The committee recessed from 1607 to 1619.

The Chair (Mr. Grant Crack): Okay, I'd like to call the meeting back to order.

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Chair (Mr. Grant Crack): On your agendas, from the Canadian Environmental Law Association, we have Jacqueline Wilson with us—she's counsel—and as well, via teleconference, Ms. Theresa McClenaghan, executive director. Are you there, Ms. McClenaghan?

Ms. Theresa McClenaghan: Yes, I'm here as well. Thank you.

The Chair (Mr. Grant Crack): Excellent. We just wanted to test, to make sure that we had the right volume. That's great.

I believe, Ms. Wilson, you're going to be making the presentation. Is that correct? All right. You have five minutes, followed by nine minutes of questioning from the three parties. Welcome. The floor is yours for five minutes.

Ms. Jacqueline Wilson: Thank you. My name is Jacqueline Wilson. I'm counsel at the Canadian Environmental Law Association. We've handed out copies of our presentation today.

I'm going to deliver the oral presentation on behalf of my colleague Fe de Leon, who fell ill today, so I'm pinch-hitting this part. My colleague on the phone, Theresa McClenaghan, who is the executive director and counsel at CELA, will answer any questions about the presentation.

The Canadian Environmental Law Association is a specialty legal aid clinic that focuses on environmental issues, including law reform issues. We have been working on protection and restoration of the Great Lakes ecosystem for a long time. CELA is also a member of the Great Lakes Protection Act Alliance.

We want to express our general support for Bill 66. We see it as an important new tool to address the growing and complex threats to the Great Lakes ecosystem, in particular from climate change, invasive species and toxic substances. In particular, we support the improved language in the preamble which now better reflects the importance and the understanding of the importance of the Great Lakes basin.

We also support the addition of language in the purposes section of the act, which also better reflects the importance of the Great Lakes watershed and the need to address climate change.

We support the addition of subclause 4(4)(d)(ii) of the bill, which outlines how the minister will develop criteria for geographically focused initiatives. We're very supportive of the enhanced public participation envisioned by this bill, in particular allowing members of the public to bring forward requests to establish targets or geographically focused initiatives.

The focus of my presentation is going to be on our concerns about toxic substances and environmental health in the Great Lakes ecosystem. I want to stress the magnitude of the problem of pollution from toxic substances in the Great Lakes. To give you a sense of that magnitude, I'm going to give you some statistics from the PollutionWatch report called Protecting the Great Lakes–St. Lawrence River Basin and Drinking Water Sources, which looked at the Great Lakes basin and pollution in December 2009, based on 2007 National Pollutant Release Inventory data.

That report stated that approximately 32 million kilograms of toxic chemical pollutants and over 720 million kilograms of criteria air contaminants were released into the air of the Great Lakes basin on the Canadian side of the border, and another 54 million kilograms of pollutants were released directly to water from facilities in source protection areas and regions of the Great Lakes basin. Those stats are high enough but they likely are in

fact even higher because that report focuses only on facilities covered by the National Pollutant Release Inventory, which doesn't cover many pollutants, and that study doesn't cover pollutants discharged from indirect sources.

We want to stress a growing concern about toxic chemicals from consumer products. Those toxic substances have been found and detected in the Great Lakes, and the existing chemical management regime has not kept pace with that growing threat.

Bill 66 offers us an opportunity to advance efforts to prevent pollution from toxic chemicals, and it's another tool to support and advance implementation of the Toxics Reduction Act and the 2014 Canada-Ontario Agreement on Great Lakes Water Quality and Ecosystem Health.

However, in order to further support that goal of reduction of toxic substances in the Great Lakes basin, CELA recommends including actual targets for reduction and specific goals to eliminate toxic chemicals in this legislation.

Before we move to questions, I also want to stress CELA's opposition to clause 38(1)(l) of this bill, which was added in this version and allows cabinet to exempt any person or class of persons from the act. It's our position that there's no need for this broad exemption power and that it could undermine the effectiveness of this important legislation, so we urge the government to remove it.

The Chair (Mr. Grant Crack): Thank you very much. We shall start with the official opposition. Ms. Thompson?

Ms. Lisa M. Thompson: Actually, we don't have any questions at this time.

The Chair (Mr. Grant Crack): Okay, thank you very much. We'll move to Mr. Tabuns.

Mr. Peter Tabuns: Thanks very much for coming and presenting today. I want to go back to the last point you made, and that's the exemption section of the bill, 38(1)(l). Can you expand upon why you see this as a negative for this bill?

Ms. Theresa McClenaghan: Because this bill is enabling legislation, the broad exemption power is ill-conceived. It's not the kind of situation where you have a very specific process where you need to allow some discussion to government for exceptional circumstances. This is broad enabling legislation, and because of the structure of the bill, where all kinds of sectors would be involved in developing the particular proposals, for example, for initiatives, there's already plenty of room to negotiate the specific measures adopted for those initiatives. In our view, the possibility of a broad exemption is very troublesome, because we have no way to predict whether a government might take a whole entire sector of activity and exempt it from the bill, and suddenly not allow parties across the province to be discussing and including that sector in the discussions about specific initiatives, or talking to government about specific things they need to do on the approvals side.

Mr. Peter Tabuns: That's pretty straightforward. Thank you, Theresa. I have no further questions.

The Chair (Mr. Grant Crack): We shall move to the government. Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Ms. Wilson, for your presentation, and thank you for your dedication and commitment to environmental issues. I'm very pleased to share with you and your association that our government is also very dedicated and committed on environmental issues.

I'm sure you're aware, and many members of your organization are also aware, that our former Premier Dalton McGuinty has received the Sierra Club Distinguished Service Award for his dedication to the environment. And Diane Beckett, interim executive director of Sierra Club Canada Foundation, said, "We honour those who despite significant challenges make the right decisions for our environment. Premier McGuinty persevered in the face of strong dissenting forces to close power plants and create a green power industry in Ontario. No other government leader in North America has made a greater contribution to fighting climate change."

I'm very proud to be a part of a government whose ongoing commitment is for environmental issues. Even our current Premier, the Honourable Kathleen Wynne, and my minister, Glen Murray, are also very dedicated and committed on this issue.

Having said that, my question to you is, do you see value in having the Great Lakes Guardians' Council as a collaborative forum?

Ms. Theresa McClenaghan: Yes, we see a lot of value in having the Great Lakes Guardians' Council. One of the things that it really adds that we don't have today is a multi-sectoral approach to setting priorities, both for the lakes as a whole and for specific threats within particular parts of the basin.

At the moment, a lot of that work is done in good faith but at the governmental level, and it means that particular actions that might be needed in particular watersheds are not necessarily getting the priority that those in those watersheds might imagine. Similarly, for the basin as a whole, that is a good forum to have a conversation about what the Great Lakes-wide priorities should be. So we're strongly supportive of the Great Lakes council proposed in this bill.

Mrs. Amrit Mangat: Can you shed light on how geographically focused initiatives are important?

Ms. Theresa McClenaghan: The biggest reason that they're important is because we lack legal tools today to address some of the activities, actions and land use that are threatening the lakes. As indicated, we do have ongoing threats that are not being prevented or restored under our current tools. Having geographically focused initiatives means that, in a very collaborative way—which is intended by the bill—either the minister could ask a public authority to develop a proposal and consult, or it could be the ground up coming forward with a proposal. But it would be very specific to the actual threats in that part of the lake. It's quite critical because

it's not a one-size-fits-all solution across Lake Superior to Lake Ontario. Even within one lake, it's not one-size-fits solutions in every part of the lake. This is going to be an extremely important new tool. I'm quite excited, assuming the bill does pass this committee and the House, to start working with people to take new actions to protect the lakes.

1630

The Chair (Mr. Grant Crack): Thank you very much, Ms. McClenaghan and Ms. Wilson, for coming before committee and sharing your insight with us. We appreciate it.

Ms. Theresa McClenaghan: You're welcome.

The Chair (Mr. Grant Crack): Have a great afternoon.

ASSOCIATION FOR CANADIAN EDUCATIONAL RESOURCES

The Chair (Mr. Grant Crack): Next, from the Association for Canadian Educational Resources, I believe we have Alice Casselman, who is the founding president. We welcome you. You have five minutes, followed by nine minutes of questioning from the three parties. Welcome. The floor is yours.

Ms. Alice Casselman: You're welcome. Thank you for this opportunity, and good afternoon, everybody. I know it's a long day and a long afternoon, but anyway, here we go.

We're very supportive of Bill 66. Our work is to help citizens and agencies realize the impacts of climate change on our water and our natural heritage in the Great Lakes basin, including the St. Lawrence, of course. That's where I was raised.

ACER began in 1997 to establish one-hectare forest plots with Environment Canada and Smithsonian folks, the career scientists, and with the partners who owned the land. We trained local staff and their volunteers, with our staff having developed these protocols. As citizen scientists, they then collected the data to be shared with everyone. Our latest plot, Ausable Bayfield Conservation Authority, is now being inventoried by their staff and volunteers that we trained.

Just to give you the context, we use local citizen scientists to do this data collection and sharing of all of their work with our technologies and teaching resources. A lot of us were teachers when we started the organization, and are now retired.

Our mandate has always been monitoring changes in trees through measurements by the local environmentally interested people and educators. We've implemented several programs along this line, from the indicator species experimental plots at Humber Arboretum to, currently, taking the riparian zone restoration monitoring very seriously—a research document released in 2010, because we were trying to find what was common to the best practices at that time.

We've gone on to staff, equip and train our local partners and volunteers to work together to carry out our

benchmark inventories on their land and their plantings, to monitor the success of community and machine plantings.

I've had the opportunity to review the written submissions of the Great Lakes Protection Act Alliance, who you just heard, and I heartily endorse their recommended amendments.

We're particularly happy, as science educators and others who are interested, to see that the purposes of the proposed act include the intention to enable citizens to contribute; they reflect the issues of climate change in the purposes; and they support the scientific principles that will guide the government's decisions in this proposed act.

We hope to have opportunities in assisting in monitoring and reporting with others, in a collaborative manner, with sections 7 and 10.

I want you to think about looking at some of the attached pages and links that lead you to some of those reports.

Very quickly, then, to finish off: We've mapped and benchmarked inventories of 10% of both community and mass tree plantings. We finished with the Toronto and Region Conservation Authority last year, and the city of Mississauga last year, with the Great Lakes Community Guardian Fund. Now we're working with Lake Simcoe and their cleanup fund, to do the same thing.

That's what we do. We permanently tag them, GPS them, inventory them, and share all the information so they can track what the success of those plantings is, and then make some decisions as to what they should plant in the future and what sites and trees should be put together for doing that in a successful way in the future. Our work is to help with the analysis of those plantings and results over years of cumulative data collection, to make better decisions for our changing climate.

It's a breakthrough for us, as a community-based citizen science organization, to do this monitoring in a very, very accurate way and share the information, so that we can make those future choices and protect our Great Lakes basin, including the St. Lawrence River.

We look forward to working with all the communities in the Great Lakes basin and the St. Lawrence to help see this vision of the law fully implemented.

Again, thank you very much for this opportunity.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Casselman. We appreciate your remarks.

We'll start with the government. Who will be starting? Mr. Dickson.

Mr. Joe Dickson: Welcome, Ms. Casselman. Well done, I might add.

Ms. Alice Casselman: Thank you.

Mr. Joe Dickson: It's refreshing to see someone who believes very strongly in monitoring and being able to realize the impact from that. I certainly congratulate you on citizen scientists. You really want more public participation.

A couple of quick questions, if I could. One of the purposes of the proposed act is to create opportunities for

people and communities to become involved in the Great Lakes. Do you see that value in supporting individuals and groups, even though I've heard what you've just said, getting involved in the Great Lakes science and restoration action and at the same time seeing the value in ensuring monitoring—again, you've already touched on it—and reporting programs are established and maintained to monitor the health of our Great Lakes? I'd like your—on those same things.

Ms. Alice Casselman: This collaboration, as a provincial partner, we have now through our last contract confirms our integrity, confirms what we do, and allows us to share. So the more collaborative partners, the better. We're educators. We've been teaching a long time, so we would enjoy working with others to share our methodologies, our technology and our resources, including the equipment. To train, equip, support is our mandate, really, to make sure this happens. We'd be delighted to partner with whoever is interested to do the collection of the data. Most people aren't interested in measuring. We are. That's our niche.

Mr. Joe Dickson: You're a guiding light.

Just finally, Mr. Chair, if I have time, the strategy sets out Ontario's road map for the protection of the Great Lakes and that includes public engagement, sharing the Great Lakes science. In your mind, would this proposed act require strategy to be reviewed regularly and for the progress to be reported, and do you support an ongoing commitment along that vein?

Ms. Alice Casselman: Absolutely, sir. We need cumulative, long-term data to be shared by everybody. We don't want people to have to buy data, we don't want disappearing data, as in Maclean's magazine, might I say. We want to make sure that this is ongoing, long-term commitment by all the partners so we have this to make future decisions. We're walking away and not knowing what happens. That's not good.

Mr. Joe Dickson: Excellent. If I have the opportunity, I'll suggest that we clone you. Thank you, Mr. Chair.

Ms. Alice Casselman: Please do. We have a little hub of an office in Mississauga. We'd be delighted to have information sessions with anyone, any time, any place. Just call us. Thank you, sir.

Mr. Joe Dickson: Don't go away.

Ms. Alice Casselman: I am so sorry. I was looking over there.

The Chair (Mr. Grant Crack): We'll move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: I actually would like to share my colleague Mr. Dickson's comments. I really appreciate your comments and your dedication. It struck me.

A quick question: With regard to the GFIs and targets that need to be met, you stand by the fact that everything needs to be scientifically evidence-based. Yes, thumbs up.

Ms. Alice Casselman: Absolutely. That's my whole background. My whole life has been teaching science and encouraging people to understand and appreciate, to have

fun doing science. That's what we're about. I know about the areas of concern from the previous run and there are lots of hot spots that we could help.

Ms. Lisa M. Thompson: Okay. What a breath of fresh air.

Your document is very handy as well. In the first page you talk about tree and shrub roots increasing bank and shoreline stability. I just want to invite you to my riding of Huron-Bruce. In Goderich, the Maitland Valley Conservation Authority—

Ms. Alice Casselman: We want to be there. That's one of our field station potentials.

Ms. Lisa M. Thompson: It's gorgeous. What they've done to reinforce the bank with trees and shrubs is absolutely perfect.

Ms. Alice Casselman: We were horrified. We actually worked, on my say-so—Heather Auld and Don MacIver, who used to be with Environment Canada. They were the ones who suggested Goderich with the wind damage. In the Niagara region, too; we have visions of putting in field stations which are replicas of the pilot we did in Niagara with Trillium money for the last three years, and you're welcome to all those reports and data.

And November 13, if I might add, we are holding our last of three community mapping workshops and I invite anyone in the area to come and join. This is a whole new asset-based community mapping protocol that we've brought to the environmental sector.

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Those two previous reports are on our website. Also, in February, braving blizzards, in Niagara we will have—I think it's the 4th or 6th of February—the last HIRA workshop. HIRA stands for hazard identification and risk assessment, and that's what these two, Don MacIver and Heather Auld, built when they were with Environment Canada and now with Risk Sciences International. They're our stars and mentors for 17 years.

So please do remember those dates. We'd just love to have you involved.

Ms. Lisa M. Thompson: Thank you. I look forward to seeing you in Goderich.

The Chair (Mr. Grant Crack): Great, thank you. We'll move to the third party. Ms. Casselman, don't go away yet.

Ms. Alice Casselman: Whoops. Sorry; I'm aware of the time.

The Chair (Mr. Grant Crack): No, there's plenty of time. There's plenty of time for you, ma'am.

Mr. Peter Tabuns: We never let people go. You can come in, but you can't leave.

Ms. Alice Casselman: I know we have a certain amount of minutes, so I'm always very—I lived by the clock for 35 years. It's okay.

Mr. Peter Tabuns: And I'm very appreciative of that. It's nice to see a citizen group tracking climate change. I appreciate your presentation today.

One of the concerns I've had, and it has been expressed by a number of people who have appeared before us today, is section 38(1)(l), which gives the government

broad powers to exempt—what can I say?—projects and bodies from the bill itself. I am assuming that your group opposes that exemption?

Ms. Alice Casselman: Yes.

Mr. Peter Tabuns: You do?

Ms. Alice Casselman: I do. I do, out loud.

Mr. Peter Tabuns: Excellent.

Ms. Alice Casselman: May I say, however, that I have a solution. I want to share this with you because I feel so strongly about this information that just came from India. I think going back historically, the Supreme Court of India ruled that environmental education shall be in every state, and they made it happen. Lately, as of two years ago, they actually said that the corporations making X dollars net profit shall have to have 2% of that net profit, over a certain boundary, maximum or minimum, put in a CSR. They have four categories, and one of them is where they actually go into their communities where their factories are and do things.

I would recommend, if I may, that you look at that legislation. I think it would be precedent-setting for Ontario to lead this. I know it's a tough time for everybody, but some people are making money, so the CSR needs that injection of some of it—a little bit. I think we can go really miles with that, if we look at that legislation.

In the steel company that I worked—the young lad who is working with us now came from there in Gujarat, and he was telling us this successful project that he did with his company, because they're sucking out groundwater. Goderich is on groundwater, right? So imagine if your company said, "This is our footprint. This is how much we have to spend with your community. Let's work together." They actually went out and found pasture land that wasn't being used and other land, and they said, "Okay, with the community, let's dig a huge pond three metres deep and that'll recharge the groundwater we're sucking out to manufacture steel, and we'll plant, with your people"—remember this is Gujarat—"all native nut and fruit trees with the farmers, and they will harvest and keep what they need and sell a surplus." Doesn't everybody win?

Mr. Peter Tabuns: Yes.

Ms. Alice Casselman: Amazing, and that's India.

Mr. Peter Tabuns: Thank you for that.

The Chair (Mr. Grant Crack): Thank you very much, Mrs. Casselman. You're actually quite lovely. We really appreciate it. You're the only person yet to try to escape twice prior to the questioning, because usually people stay. You were entertaining and very knowledgeable. Thank you very much.

Ms. Alice Casselman: It speaks to my educator's background, watching the clock. The kids can see it behind my head, and I have to twist my neck. Take care.

The Chair (Mr. Grant Crack): Thank you for coming. We really appreciate it.

ALLIANCE FOR THE GREAT LAKES

The Chair (Mr. Grant Crack): Next we have, from the Alliance for the Great Lakes, Mr. Joel Brammeier?

He's the president and chief executive officer. We welcome you here this afternoon, sir. You have five minutes.

Mr. Joel Brammeier: My first comment has to be that Ms. Casselman needs to pay a visit to the United States, because that was an infectious presentation, inspiring and a tough act to follow, so I hope I can.

Ms. Alice Casselman: Thank you so much. Any time you want to invite me.

Mr. Joel Brammeier: I may well take you up on that.

Ms. Alice Casselman: And pay my way—

Mr. Joel Brammeier: That is always the rub, as we're going to talk about.

The Chair (Mr. Grant Crack): Good. The floor is yours, sir.

Mr. Joel Brammeier: Mr. Chair, thank you for inviting me. As you said, my name is Joel Brammeier. I'm president and CEO of the Alliance for the Great Lakes. We are an independent NGO headquartered in Chicago, Illinois, with staff around the Great Lakes region on the US side. I'm also a member of the governance board of the Healing Our Waters-Great Lakes Coalition, which started and continues to organize the stakeholder movement to support funding for Great Lakes restoration in the United States.

Our vision is healthy Great Lakes for people and wildlife forever. I'm here representing thousands of our supporters, because the Great Lakes are precious to the environment and the economy of our region, and they know no political boundary. The province of Ontario is in a unique position to help lead the region towards Great Lakes health, resilience and promise for the future.

I want to take a moment also to specifically thank the province of Ontario for its leadership on the invasive species issue, particularly with regard to Asian carp. People in the United States notice your activities and are very thankful for the actions that have been taken over the last several years here.

Our lakes, unfortunately, can still induce fear rather than awe—fear in the form of water that's toxic at the tap or pathogens that make people sick. This really ought to be unheard of in a place where we have access to nearly 20% of the world's fresh surface water.

The Great Lakes region can become a global leader in water stewardship, and the Great Lakes Protection Act will demonstrate that Ontario is serious and aspirational in its expectations of what the Great Lakes can be.

We fully support the recommendations of the Great Lakes Protection Act Alliance and urge you to adopt their recommendations.

I also want to point out that the committee is receiving a letter signed on to by 15 United States organizations in support of the bill, organized by my colleague Nancy Goucher, who I think is not back in the room yet.

My own comments are going to be focused on some of my own observations and experiences in Great Lakes work over the last 15 years, with a particular focus on targets, collaboration and financing.

As you've heard already today, the problems facing the lakes today don't come with simple on-off switches. They're not coming at the end of a pipe, typically. The

targets contemplated by the protection act will set certainty in the face of this daunting complexity.

Targets do not solve a problem, but we have already seen the power of targets when voiced by Premier Wynne and her counterparts in the states of Ohio and Michigan, saying we will reduce pollution in Lake Erie by 40%—that lays a foundation for success. It communicates to the public that we know there is a path to Great Lakes health, and it activates innovators, stewards, landowners and advocates to find solutions. Those targets, as contemplated in the act, are critical.

The protection act does something else that I think is extremely important: It tries to harness the power of collaboration. In particular, the process of consultation with stakeholders and the ability to use a diverse set of tools that are customized to the situation at hand are critically important in solving the systemic problems we have in front of us.

I've seen the demand for and the power of these kinds of approaches in other places, and I just wanted to share my perspective from the States, in particular the state of Wisconsin. The state of Wisconsin is facing a similar situation as to what is in Lake Erie, on a smaller scale, with toxic algae blooms, that are coming from a myriad of sources, in a watershed.

Residents there are deeply concerned, not just because they're concerned about the quality of their water, but because they see people not coming to that part of the state because of the quality of the resources being diminished.

There's a new statutory approach there that invokes voluntary practices; regulation, as appropriate; measurement and monitoring; and significant financing, and these communities are actually binding themselves together, urban and rural, in an attempt to reduce water pollution from all sources.

I see promise in the geographically focused initiatives concept, and I urge you to pursue that promise in this bill.

The last thing I want to mention is the importance of financing and funding. To give an example of this, reaching back several decades, consider the creation of the concept of areas of concern, these most polluted hot spots around the Great Lakes in the US and Canada that were designated in 1987.

Communities around the region created plans for cleanup of these sites, and, frankly, many of those plans—I can certainly speak from experience in the United States—sat on a shelf for a decade or more, until the mid-2000s, when stakeholders and communities started to realize that if they didn't get active about finding financing to implement these plans, nothing was ever going to happen.

There's a lot more work left to do in the Great Lakes. In the US, we're looking back, however, on five years of unprecedented investment—federal, state, local and private—brought about by the Great Lakes Restoration Initiative.

From our own work to change local policies to improved clean water in communities, I know that timely investment is as meaningful a predictor of success as the

right policy and strong public engagement. It does not necessarily have to be a huge infusion of government money from one source, but the need for sufficient financing is real and it needs to be satisfied for these initiatives to succeed.

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The Great Lakes centre our effort to build a resilient future where the people of the region are elevated alongside the place that we all hold dear. The protection act rightly seeks to address critical gaps in Ontario's leadership of Great Lakes protection, and it does so in a way that partners with the people of the province. With an emphasis on target-setting, collaboration and sufficient funding, Ontario can continue to emerge as a Great Lakes leader within an ecosystem that joins and aligns two great nations.

Thank you for the opportunity for making comments today, and I'm happy to take your questions.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Brammeier. We will start with the third party, NDP. Mr. Tabuns.

Mr. Peter Tabuns: I'd like to thank you very much for the presentation and for the written submission.

Could you talk to us a bit about the level of financing or funding that's gone into cleanup initiatives on the part of American Great Lakes states?

Mr. Joel Brammeier: I can. The Great Lakes Restoration Initiative is a federal funding source that has created a little less than \$2 billion in federal investment through federal agencies over the last five years. That goes in a number of ways through federal agencies and also in grants to state agencies, and then it often is matched, typically by additional investment at the state, local and private scale. So even though you're seeing that \$2 billion in federal investment, you're seeing multiples of that being invested by state and local sources.

Mr. Peter Tabuns: Those are very significant resources, and it's good to hear about that. You noted that plans to clean up the lakes, to clean up local communities that had hot spots, sat on shelves until the middle of the last decade. What was it that sparked people? What moved them to actually start investing?

Mr. Joel Brammeier: I think it was the inertia, frankly. There was a time, I think, in the early 1990s and mid-1990s in the US when many of the areas of concern had groups of stakeholders that came together and built very strong, meaningful plans and networks of people who wanted to support those plans for cleanup. If you spend five or 10 years waiting around and watching to see what's going to happen and you realize nothing is happening, you start to create a movement of communities that all network together and write a plan for the cleanup of the Great Lakes. That plan eventually underpinned a federal process that became the Great Lakes Restoration Initiative.

Mr. Peter Tabuns: Okay. Thank you very much.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Ms. Mangat?

Mrs. Amrit Mangat: Welcome to Queen's Park, Mr. Brammeier.

Mr. Joel Brammeier: Thank you.

Mrs. Amrit Mangat: I'm pleased to see that there is support across the basin. It demonstrates how important it is to work co-operatively and together. When we work together, we always benefit from the ideas and advice of others.

We all know that in the past five to 15 years, unique changes have been recorded in the Great Lakes' history. Previous speakers today and yesterday spoke about climate change. We can also see the impacts of climate change here in the province of Ontario, severe weather phenomena: heavy downpours, rainfall and snowfall extremes, and, similarly, floods and droughts are becoming very common. What is your position on this?

Mr. Joel Brammeier: We are facing serious implications in the Great Lakes region from the reality of global climate change and we are facing a reality where some of those changes are baked in and are already damaging and hurting the people of the Great Lakes region and the ecology of the Great Lakes region.

What we have to do in the short term is equip communities with the tools they need to become more resilient in the face of challenges like extreme storms, extreme flooding, property damage. In the long run, we have to mitigate the causes of climate change, because that is the only thing that will protect the Great Lakes for generations to come.

Mrs. Amrit Mangat: Do you think that overall, on the whole, Bill 66 is a positive step in the right direction?

Mr. Joel Brammeier: I think that the collaborative approach outlined in Bill 66 can very much support the kind of building resilience within communities and networks of communities that I spoke of, yes.

Mrs. Amrit Mangat: So what I understand you are saying is that this proposed act would enable geographically focused initiatives?

Mr. Joel Brammeier: Yes. When I say collaboration, I do mean the GFI concept, which allows a network of communities to come together, identify what we would call stressors on their systems, stresses on their water such as dealing with extreme precipitation, and then come up with strategies to adapt to those stresses collaboratively.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the third party. Ms. Thompson.

Ms. Lisa M. Thompson: Thank you very much for being here. I'm taken by your breadth of experience, and I'm wondering—many neighbouring states value the legislation we have in Ontario, known as the Environmental Farm Plan and also the Nutrient Management Act. Speaking to somebody who is chair of the Great Lakes initiative, he's saying that many neighbouring states are looking to Ontario to help them develop their own environmental farm plans and their own nutrient management plans.

We all know that Lake Erie is a big issue. In your experience, bringing an American perspective to our committee table today, what are Americans doing in terms of their part in protecting our Great Lakes?

Mr. Joel Brammeier: Well, that's a great question. With regard to the programs that you mentioned related to agriculture, it is important to recognize that the Lake Erie problem and the nutrient problem is an international problem. There are certainly larger contributors and smaller contributors across the board, but the problem truly will not be solved without action on the part of all of the jurisdictions around Lake Erie.

I'm encouraged by some of the progress that is being made, particularly in the state of Ohio, where there have been some initial steps to reduce the inputs of phosphorus into the Maumee River and other streams and rivers there.

Ms. Lisa M. Thompson: That's exactly what I was referring to.

Mr. Joel Brammeier: I think that we have a long way to go, and I believe that we have a lot of work to do on both sides of the international border.

Ms. Lisa M. Thompson: Okay. That's it.

The Chair (Mr. Grant Crack): Thank you, Mr. Brammeier for coming before us and for coming up to the great province of Ontario. We appreciate that.

Mr. Joel Brammeier: Thank you for your time.

GREENLAND INTERNATIONAL CONSULTING LTD.

The Chair (Mr. Grant Crack): Next we have, from Greenland International Consulting Ltd., Mr. Mark Palmer and Mr. Jim Hartman with us this afternoon. We welcome the both of you. You have five minutes, followed by nine minutes of questioning. Good afternoon.

Mr. Mark Palmer: Chairperson Crack, Vice-Chair Dickson and committee members, thank you for the opportunity to speak today.

I'm here before you with my business partner Jim Hartman. Collectively, we represent 50 years of professional engineering experience in the province of Ontario. We work for a company called Greenland International Consulting, which is a member of the Greenland Group. Our head office is located in the town of Collingwood, in Simcoe county, Ontario.

We stand before you to specifically recommend the following amendments to the principles that are intended to guide decisions in Bill 66: primarily, that section 6.4(i) be amended to read, "An ecosystem approach that addresses individually and cumulatively all sources of stress to the Great Lakes." And finally, another amendment: that section 6.4(iv) be amended to read, "The importance of collaboration and the sharing of data between government and interested persons and organizations in seeking to achieve the purposes of this act."

We've prepared a slide deck presentation. Jim will speak to some of the examples that we're leading now with our partners—municipal and First Nations partners—in Ontario and maybe a focus on Simcoe county. We were involved with the preparation of the Lake Simcoe Protection Plan and some of the modelling tools that were developed about 10 years ago.

Greenland is a professional engineering company, but we're unique in the sense that our business plan includes the development of decision support tools, which includes Ontario universities. Currently, we have relationships with the University of Waterloo for information technology development and the University of Guelph. Jim and I are both Guelph grads, so Guelph is dear to our hearts.

In 2013, we entered into a joint venture arrangement with not only Waterloo but also the Communitech hub. Communitech is a 1,000-member organization in the Kitchener-Waterloo region. We're a private sector company, but we've reached out through the network and membership there to work with agencies, government, NGOs in terms of developing partnerships and the development of these tools and technologies. Primarily, we're working with a Great Lakes basin focus, and we're also, as I mentioned, working with some First Nations communities in Ontario.

To date, landmark cloud-based system tools have been developed and validated in Ontario, including, this summer, models for the Lake Erie basin. Currently, we're working with Environment Canada, the Ontario provincial ministries as well as the conservation authorities to look at policies on the Canadian side of the border for Lake Erie and how to incorporate innovative technologies and approaches with these systems with university and research teams. That's an ongoing project that is under way.

One of the models in your package that is referred to as CANWET has been around for 10 years. It evolved, as I said, out of the Lake Simcoe Protection Plan. It stands for the Canadian watershed evaluation tool. We're pretty proud of that tool.

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We're here to also say that this industry-accepted tool forms part of a first-ever open and transparent Internet cloud platform that will be accessible at shared, lower costs and maintained at the University of Waterloo. We developed this platform with other tools. What that means is that the data that is being provided to these tools and models provides information that we feel would be of value to multiple users. As a private sector firm networking with government agencies, we feel that this will lower costs over the long term. With the legislation at hand, moving to our cumulative effects management approach, we feel the technology is there.

New technology is now being rapidly developed in Ontario. I just returned from the Eureka Acqueau conference in Europe. We were invited by the NRC to participate in a European forum, and I was very proud to showcase the work that we're doing in the Great Lakes basin and with the province as well. We're moving quickly on the technology front.

Having the legislation amended to include collaborations, sharing of data, and also cumulative impacts: We have the tools, we have the technology and we have the partners now in place—and some examples—to move this forward.

Jim can just provide a few examples with the time remaining.

Mr. Jim Hartman: Certainly. We've actually put into motion and into place some of the tools that Mark is talking about with respect to cumulative impacts.

One of the specific examples that we've been working on recently is in the township of Adjala-Tosorontio, which is just west of Alliston in Simcoe county. In that particular instance, that community is growing and looking to grow further, but they also have environmental concerns within the community that need to be addressed, specifically their septic system and the septic system failures that are occurring there and some issues associated with the failures as it relates to source water protection and taking of groundwater.

When we started to look at solutions to that, we looked at the cumulative impacts of the septic systems and potential solutions, which would include looking at non-point sources as a method of reduction, as well as looking at the potential of removing septic systems and discharging them into a waste water treatment plant. But in doing so, we looked at the cumulative impacts of all of those impacts and, using tools like CANWET, determined what those impacts would be on—in this particular case, the Pine River, which, as you may be aware, is a very highly regarded salmon fishery within the Great Lakes. The tools have been used from a cumulative impact perspective in projects like that. We've also been involved in the visioning strategy for the county of Simcoe and using those tools to identify the best locations for waste water treatment plants throughout the county.

The tools are in place, as Mark has indicated, and certainly, we think that this bill will go a long way to ensuring those cumulative impacts are having high regard going forward on all future projects.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that.

We'll start with the government. Ms. Kiwala.

Ms. Sophie Kiwala: Thank you very much for being here. It's a very interesting presentation. It's a dreadful shame that we only have three minutes to question and you have five to deliver. But that is what it is, so there's nothing else we can do about it.

I have to say, right off the bat, it's an absolutely inspiring collaboration that you've done with different levels of government and different regions—very fantastic. You're working with a First Nations group, which is always important to me. Also, your work collaborating with universities is going to be extremely important in getting the best science-based approach to this policy going forward. We really appreciate your input there. I would encourage you as well to think about Queen's University—just saying.

It sounds to me in general like you support the bill. You feel that it's a positive step for the province to be taking at this time.

Mr. Mark Palmer: Yes. There are five pieces to cumulative effects management, and the missing piece is the legislation, the statutory directive to implement it. We

have the technology. We have data. We can utilize that very effectively through these partnerships. With the legislation and with the amendments that we've suggested, it fills the final piece of the puzzle for effective cumulative effects management. That's a piece of the puzzle that I believe is really needed now to move forward on individual watersheds.

I just wanted to also mention some of the pilot testing we've done in Lake Erie. It's quite exciting, actually, because we're always asked the question. With the number of watersheds in Lake Erie, we're pilot testing the tools now on the Thames River basin draining into Lake St. Clair—very interesting results we're getting now, and we couldn't have done this without the University of Waterloo involved, in terms of their horsepower with computer technology.

As engineers, at the end of the day we're the ones helping, working with stakeholders to develop solutions. We take our risk through that as professional engineers, but we need the best tools and technology, and that's where I think we've got a very unique blend of a team there. The technology's moving very rapidly, so there's no reason, I don't believe, that these amendments could not be made in looking at cumulative impacts and not just individual—

Ms. Sophie Kiwala: Fantastic. So would you support setting targets as well in collaboration with local priorities?

Mr. Mark Palmer: Yes. The experience that we had with the Lake Simcoe Protection Plan was very unique. We worked with all the municipalities in the Lake Simcoe basin, setting targets—end of sub-watershed targets but also there were in-stream targets. We had some American companies working with us as well with their experience with TMDLs, total maximum daily loads technology.

The answer is yes, and with the technology now we're able, through these tools, to develop these maps—the road maps, these hot spot maps. It's interesting, as we develop these maps, what I find is it breaks down the barriers on finger pointing. What it does is, it shows clusters of area where everybody has to work together. It could be, as Jim said, multiple point/non-point sources. I find that, without these tools, we've always been pointing fingers at who is causing issues in the lake, but with the technology now there in place and moving quickly, we're able now to create these partnerships to say, "Let's work together," and "Where do we spend our limited dollars to fix the issues?"

It's not only a spatial issue. We're finding with the snowmelt periods and climate change—these models are linked to climate models—we're having dramatic impacts obviously with the spring freshet and also the events we have with warmer winters. So this will be an interesting winter, what's coming up, with El Niño, in terms of monitoring loads to the lake. I think it could be quite dramatic actually.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that.

We'll move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: I think we can all agree that the Lake Simcoe Protection Plan is certainly a benchmark. We recognize what's in it to make it to the level of an award-winning initiative.

I also have to share with you that I'm a Gryphon. I'm sure you know Wayne Caldwell.

Mr. Mark Palmer: Yes.

Ms. Lisa M. Thompson: Very good.

Mr. Mark Palmer: Excellent.

Ms. Lisa M. Thompson: I appreciate the work you're doing and the message that you share today.

One thing about setting targets: Would you not agree that any targets that are identified for Great Lakes protection should be science-based based on the message that you just shared with us?

Mr. Mark Palmer: Yes.

Ms. Lisa M. Thompson: Again, I applaud the idea of removing the finger pointing and getting to the solution—absolutely we need that to be done.

But when you take a look at Bill 66, were there any flags that popped up for you or did you find it odd that there was absolutely no funding identified to accompany Bill 66?

Mr. Mark Palmer: From a private business perspective, we do live in interesting times for finding money, but I find that when we have these tools, leveraging is a key tool that we can use in business. That's my message today, as a private business that's been in operation for 20 years. I think moving forward with the legislation, it should include this private sector involvement with technology, and our Communitech cousins, our 1,000-company representation of firms there with sensor technology and many new techniques. We should encourage that. We should encourage the private sector getting more actively involved in watershed management issues.

Ms. Lisa M. Thompson: Thank you. I agree with you.

Mr. Mark Palmer: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. Mr. Tabuns, from the third party.

Mr. Peter Tabuns: Gentlemen, I'd like to thank you for appearing today, but I don't have any questions. Thank you.

Mr. Mark Palmer: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. A very comprehensive presentation. We really appreciate you taking the time this afternoon.

Mr. Mark Palmer: Thank you, Chair.

PICKERING AJAX CITIZENS TOGETHER TO PROTECT OUR WATER

The Chair (Mr. Grant Crack): Next on the agenda we have Pickering Ajax Citizens Together to Protect Our Water. We have Joanne Dies, is it?

Ms. Joanne Dies: That's right.

The Chair (Mr. Grant Crack): She's the co-chair. Is Mr. Steele here with you today?

Ms. Joanne Dies: I'm sorry. He was unable to make it at the last minute.

The Chair (Mr. Grant Crack): Okay. Of course, you know you have five minutes for your presentation, but maybe we'll take it to four since that was in my package. What do you think, Mr. Dickson?

Mr. Mike Colle: I didn't get that.

The Chair (Mr. Grant Crack): It's all in your package.

Thank you very much. You have five minutes for your presentation, and we welcome your remarks.

Ms. Joanne Dies: Thank you very much, Mr. Chair and members of the committee, for allowing me to address you this evening.

1710

As the Chair said, I'm Joanne Dies. I'm a resident of Ajax. I'm also a municipal councillor and the co-chair of what we call PACT POW—it's a lot shorter. The citizens' group PACT POW came together three years ago in direct response to concerns from residents regarding the algae growth along the Ajax waterfront, specifically on our beaches and shores. In Ajax, we're very proud that the whole front of our waterfront from east to west is publicly owned and is a public park enjoyed by many. As Vice-Chair Joe Dickson knows, we do have a huge problem with stinking, rotten algae, which they call cladophora, along the Ajax-Pickering nearshore, which is getting worse as time goes by. It's really very prolific.

So we've done scientific study. It's been conducted along the Ajax-Pickering waterfront and has proven that the soluble reactive phosphorus, or SRP, discharged from the Duffin Creek sewage plant in Pickering, which is just west of Ajax, is the cause of the nuisance algae. A phosphorus reduction strategy was approved for Lake Simcoe not too long ago, but no such strategy has been established to protect Lake Ontario from SRP. That's one of our questions: We'd like to know why it's okay to have that protection in Simcoe but not Lake Ontario.

Therefore, we need the province to set a specific target for SRP for the Lake Ontario nearshore waters now, and we need the Minister of Environment and Climate Change, Glen Murray, to apply SRP limits specifically on the Duffin Creek plant now, as an immediate permanent solution to the algae problem, because we have a problem now and it's getting worse.

Minister Murray has an opportunity to do this immediately in his response to PACT POW's part II order request, as well as requests filed by the town of Ajax, NGOs and almost 100 Ajax residents—and Pickering residents as well—regarding the York and Durham region's deficient Duffin Creek sewage plant outfall EA and environmental study report. This would send a strong message of support for Bill 66 and the need for strong policies and regulations on nutrient loadings, essential to preventing further degradation of the shoreline and our future water quality. We need to turn back the tide.

Again, MPP Dickson knows the Duffin plant's outfall and the explosive algae growth are huge issues in our

community. He promised during the last election to champion an immediate solution to this problem. I have to say our residents are well educated on the issues that nutrients cause in our lakes, in our nearshore, and how they jeopardize the future of our quality of drinking water.

Bill 66 contains tools that PACT POW and the town of Ajax could use, such as section 30, which would allow us to request that SRP targets be set and a geographically focused initiative be prepared to tackle the broader nearshore algae problem.

Here's what we think needs to be changed to make Bill 66 stronger:

—In section 7, the minister must also carry out monitoring and reporting of SRP concentrations in nearshore waters measured at appropriate intervals in the water column, and tissue phosphorus concentrations in cladophora measured at optimum depths for growth; and

—A new subsection in section 9 requiring that within two years of this section coming into force, the minister will establish a phosphorus reduction strategy for the Lake Ontario nearshore which shall, at a minimum, include establishment of a water quality objective for cladophora, a provincial water quality objective for SRP and nearshore waters of Lake Ontario and phosphorus loading limits for sewage treatment plants discharging into our lake.

Regulating SRP is key to saving our waterfront from the adverse effects of algae. People want to swim in a clean lake and have picnics on our beaches. What they don't understand is why the government is not fixing the problem when they have the tools at hand.

PACT POW supports the amendments to Bill 66. We're very glad to see it coming forward. We also support the Great Lakes Protection Act Alliance, including the removal of the section 38 exclusion clause by the Great Lakes and St. Lawrence Cities Initiative. We need the province to act quickly to approve Bill 66, with our recommended revisions included—that would be nice. Bill 66 is exciting news, a step in the right direction, but we have to make sure we implement consistently and that we all, including the Ajax waterfront, can benefit from this legislation. We know that nutrient loadings are issues in other municipalities where there is population; this is not new. I've also read studies that go back to 1971 that say nutrient loadings are the problem, particularly from sewage plants. So we feel that we need regs.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it.

We will start with the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Thanks very much for being here. I appreciate your message. It reinforces a message from the anglers, interestingly enough, that we heard earlier today. Thank you for that.

First thing, would you be able to share the notes that you read off of today? Were you reading directly from here?

Ms. Joanne Dies: They should be in the package.

Ms. Lisa M. Thompson: This one?

Ms. Joanne Dies: No, they look like that. But they should be in the package.

Ms. Lisa M. Thompson: Oh, that one. Perfect. Okay.

Ms. Joanne Dies: Bullets.

Ms. Lisa M. Thompson: I know I've seen that. Thank you very much. I appreciate that.

In terms of the benchmark, the manner in which Lake Simcoe has been improved: I think it's something that we kind of need to hold as a measuring stick. How do you feel about breaking down the guardian council to have geographically based sub-councils, if you will, of the guardian council addressing each Great Lake?

Ms. Joanne Dies: Well, it has to be manageable, of course. So that may work, in that respect. I understand the need to look at those hot spots or special areas of concern, which is really what we are, and I think that's what was proposed previously, to look at those special areas. So yes, you would have to have a way of doing that that would be fair and advantageous.

Ms. Lisa M. Thompson: Okay. Very good. I think that's it for now, but I really appreciated your presentation. Your messaging was not lost on me.

Ms. Joanne Dies: I don't know if you wanted me to add anything about Simcoe—

Ms. Lisa M. Thompson: Sure. Go ahead.

Ms. Joanne Dies: Simcoe is a different lake, of course; we all understand that. But it reached a tipping point and was almost a dead lake. So what happened was that the legislation said no more nutrient loadings into Simcoe. They looked at the best, latest technology: reverse osmosis technology, which removes like 99% of phosphorus, and some pharmaceuticals as well, which is an emerging issue. It's very efficient and it will forever benefit the lake, and hopefully the remediation of that lake won't take as long as we think it might.

Ms. Lisa M. Thompson: And my last question is, are you open to hosting tours and showing us exactly, hands-on, what the issue is?

Ms. Joanne Dies: Yes, absolutely.

Ms. Lisa M. Thompson: Thank you.

Ms. Joanne Dies: There are some photos there for you.

Ms. Lisa M. Thompson: Yes, there are photos here.

Ms. Joanne Dies: They're my boots.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that.

We'll move to Mr. Tabuns.

Mr. Peter Tabuns: Ms. Dies, I want to thank you for coming here today. I don't have questions, but I do want to say it's a very effective presentation and the photos say more strongly than anything else that anyone can say what the state of the lakes is. I find it extraordinary that the operator of the sewage treatment plant that you identify doesn't think that their discharge has anything to do with the problem. Thank you.

Ms. Joanne Dies: Thank you.

The Chair (Mr. Grant Crack): We'll move to the government. I would imagine Mr. Dickson would like to comment, or ask a question, perhaps. Mr. Dickson.

Mr. Joe Dickson: I would prefer not to comment, but to ask questions and give the proponent the opportunity to speak longer. I think I heard you say you would allow an extra moment because of the photograph, Mr. Chair.

Welcome, Joanne. Joanne is one of our diligent councillors in the municipality of Ajax and has worked on this project for several years. She's so powerful that she actually stopped the Premier's bus about two years ago when it was coming through Ajax. The Premier stopped on a dime and had a special meeting right on the spot, unannounced, unrequested and unprearranged.

Ms. Joanne Dies: And we'll never forget that moment.

Mr. Joe Dickson: Just a couple of quick comments for my colleagues around the table. I want to get to the main thrust and that's Bill 66, but there have been about 100 requests for bump-ups on this particular project. I certainly support it; I'm on public record continually agreeing to do that. It's one of those items that requires extensive legislative reviews, individually, so it's quite a timely process. I spoke with the Minister of the Environment and Climate Change, Glen Murray, as late as a day and a half ago.

1720

When we get to Bill 66, Ontario is now being recognized, after a second day of hearings, as the leader of environment and climate change. We have five bodies of water, excluding Lake Michigan, we have five provinces/states, and it's a lengthy process.

I know that I've mentioned once or twice today the papal encyclical of Pope Francis—and to sit nine rows beside him, and have a representative from the United Nations give a review of that and put in place for the rest of the world the very strong platform that he has put forward on the environment.

Lake Erie: I know there is a process where we have something coming forward, I'm hoping, where there will be a 40% reduction and a very short time frame to implement it and complete it. That's not formalized as yet, but experts are telling us day in and day out that collaborative effort is the secret. We need to upgrade all of our water basins, rather than specific areas. I still say this is an exception in Ajax, and it has to be considered as that.

Ohio is making its own progress. Lake Simcoe was mentioned. Of course, what that really means and what we did—I think it was in 2008-09 that MPP John Gerretsen, the Attorney General, brought forward that legislation. That model is really a model for some of the Great Lakes work that has to be done.

The Chair (Mr. Grant Crack): Final comment, please.

Mr. Joe Dickson: A final comment would be a question to—

The Chair (Mr. Grant Crack): No, there's no time. You're well over time.

Mr. Joe Dickson: One minute, Mr. Chair—

The Chair (Mr. Grant Crack): We have an order from the House, Mr. Dickson.

Mr. Mike Colle: Come on. You've got 40 minutes. Let the man talk.

The Chair (Mr. Grant Crack): We've got an order from the House. To be fair to all members, each party and also the presenters—a quick question.

Mr. Joe Dickson: If the Chair wouldn't hold me up so long, Councillor Dies, I would have this question to you. PACT POW has championed this need for increased efforts to protect the Great Lakes. I know how strong your sentiment on that is as well. Do you think the proposed legislation on this whole project is a positive step in protecting the Great Lakes? I'm referencing, of course, Bill 66.

The Chair (Mr. Grant Crack): A quick response, please.

Ms. Joanne Dies: It's a positive step, but it's missing the nutrient regulations.

Mr. Joe Dickson: I understand what you said—

The Chair (Mr. Grant Crack): Okay. Thank you very much, and we really appreciate you coming forward.

Ms. Joanne Dies: Thank you for having me. I appreciate that.

The Chair (Mr. Grant Crack): I know that Mr. Dickson would love to go on for another 10 or 15 minutes, but we do have an order from the House. I apologize; I'm just doing my job.

Ms. Joanne Dies: I understand.

The Chair (Mr. Grant Crack): Thank you. It was very informative. We appreciate that.

Mr. Joe Dickson: Thank you very much.

The Chair (Mr. Grant Crack): And thank you to the Chair, as well, for letting you continue? No? Okay.

ONTARIO HEADWATERS INSTITUTE

The Chair (Mr. Grant Crack): Next on the agenda, from the Ontario Headwaters Institute, we have Mr. Andrew McCammon, executive director. We welcome you, sir. You have five minutes for your presentation, followed by nine minutes of questioning.

Mr. Andrew McCammon: Thank you very much, and thank you for working so late on a Thursday afternoon. I'm sure you'd like to be outside, like I was all day, planting trees. It's hard to stay awake and alert at this hour.

The Headwaters Institute obviously focuses on small streams—first, second and third order, technically. While they are small and under the radar, our small streams generally consist of about 60% of the area of every watershed, contribute about 60% of total stream length, host the majority of biodiversity and contribute the bulk of flow. Our headwaters are extremely important and our position is basically that, yes, while the lakes have significant point source problems—municipal STPs, industry and so on—you cannot protect and preserve the lakes without preserving the land.

You have in front of you our submission from April; there are two recommendations in it. The first recommendation asks you to add some detail to sections 9 to 13 on

facilitating public input. I think it's a little light, and I tie that in particular to section 30(3), which says that the minister may ask a proponent for more information.

That could put a huge cost chill—maybe a municipality would have the resources, although they might not want to give them up, to detail a proposal for the minister to become a local initiative or what have you, but certainly the OHI has numerous suggestions, and we cannot afford to answer the minister's call for detailed material on our proposal. I think there is a significant chill in that.

Our second recommendation is based around the perception that this province is really faltering on watershed management. It's very encouraging to see that watershed management has been written into this third draft of the bill, which is less bad than the previous two, and we really salute the fact that it is improved and it really is a reminder to everybody—those who got their shorts in a knot on the previous Bill 100 and Bill 6, that it had to be passed, it had to be passed, it had to be passed—this is a much-improved bill. It always is encouraging to see that sober second thought, in fact, provides improvement.

Watershed management is not working in this province. The bullets on page 2 explain why. They are the tip of the iceberg. The CA Act is currently being reviewed but there are so many other areas that are lacking in terms of targets for natural heritage, in terms of the low water response plan, in terms of highly divergent 179/06 guidelines in the CAs for development and protection of wetlands. It is a checkerboard out there.

We really think that the watershed management message in the Great Lakes Protection Act is important but it really needs to be buffered with other things.

In particular, my last point would be this: The Great Lakes Guardians' Council is not a bad idea, but I think it is going to be extraordinarily unwieldy. There are municipalities, scientists, academics, agencies, NGOs, farmers, aggregate extractors, industry, coastal nursery specialists—there are all kinds of specialists to talk about the lakes.

If you go to the IJC website, on the areas of concern, you will see that there is a promise to have digital maps of the sources of pollution. There aren't any. If you cut down all of the trees in the headwaters, you will have problems in the lakes. So a holistic approach is required, and in particular—and I really appreciate your question to the last presenter—we believe that Ontario needs to establish regional water boards that can formulate solutions that are needed locally on permits to take water, on the quotas under the level 3 advisories, under the low water response plan, and so on and so on.

We need as many resources on the land as we do that will be in the Great Lakes Guardians' Council. I would really think that a good percentage of the appointees to the guardians' council really should come from the land, and I don't see any room for that.

Thank you very much.

The Chair (Mr. Grant Crack): Right on time, sir. Thank you very much. I appreciate that.

We will start with the government. Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you, Chair. Thank you for your presentation. It was very informative.

I do see your recommendations here and I do understand that you have already contributed to changing earlier versions in regard to having—the bill was strengthened from earlier versions, in response to previous requests from organizations like OHI, by clarifying that the purpose of the bill is to protect and restore watersheds, not just the Great Lakes. Correct?

Mr. Andrew McCammon: Yes.

1730

Ms. Ann Hoggarth: Okay. The preamble also was modified in direct response to concerns from your organizations with respect to the description of the size of the Great Lakes-St. Lawrence River basin. Is that correct?

Mr. Andrew McCammon: Yes. Do you have a couple of points and then I can respond to them, or—

Ms. Ann Hoggarth: Well, I just wanted to ask you if that is correct.

Mr. Andrew McCammon: Yes. It's really—

Ms. Ann Hoggarth: So it was changed.

Mr. Andrew McCammon: It was changed, yes.

Ms. Ann Hoggarth: Okay. Now my question is, how can the province best employ integrated watershed management approaches in the implementation of this act?

Mr. Andrew McCammon: There is an incredible diversity of agencies dealing with watershed management. There are four major agencies, to my counting: MNR, MOEC, municipal affairs and housing and OMAFRA. I think that they, along with conservation authorities, should be encouraged through a new document. The current document, Water Management on a Watershed Basis, is over 20 years old. If the province tabled a guideline that required the major water-focused ministries as well as the CAs to embrace adaptive management and/or integrated watershed management, that would go a long way.

In the CAs, there is about a 30-30-30 split in the progressives, the stand-pats and the CAs, with seven people who really don't have the resources to do integrated watershed management. So it's a policy issue and it's a resource issue.

Ms. Ann Hoggarth: You are also in favour of it being a basin-wide approach?

Mr. Andrew McCammon: Oh, yes.

Ms. Ann Hoggarth: I'd also like to know if you are in favour of measurable targets and tracking performance.

Mr. Andrew McCammon: It really is one of the follow-throughs on the point that I raised about natural heritage targets. The federal government has a document called How Much Habitat is Enough? We have been requesting the province for about years to consider tabling a provincial equivalent so that you would identify how much headwaters, how much wetlands, how much natural heritage each watershed should save. So those are the big aspirational targets, and then you would have water-quality targets and other targets.

You may not be aware of this, but the province has something called the Provincial Water Quality Objectives. They're just objectives. A watershed can fail year after year after year on any of those criteria, and no action is mandated. So yes, we need targets.

The Chair (Mr. Grant Crack): Thank you very much. Ms. Thompson.

Ms. Lisa M. Thompson: Andrew, thanks for being here. You just closed off by saying, yes, we need targets, but would you not agree that those targets need to be scientifically based, with pure, clean evidence pointing to why an initiative needs to happen?

Mr. Andrew McCammon: I think that's a softball question. Yes, of course.

Ms. Lisa M. Thompson: Thank you. That's good, because we heard concern earlier from the fruit and vegetable growers that it's just not right to have targets for the sake of having targets. The targets need to be science-based. I just wanted to get your opinion on that. Okay. Thank you very much.

Then you also went on to say during your deputation that Bill 66 is "less bad than the previous two," Bill 100 and Bill 6. That choice of words actually stuck with me: It's "less bad than the previous two." What's still wrong with it? Do you want to clarify your comment?

Mr. Andrew McCammon: I think it is a lengthy bill that tries to prescribe certain futures, and while it tries to be a visionary bill, it in fact might tie our hands to some of those visionary things. I think that the geographically focused initiatives are completely unnecessary. I would remove that section from the bill. Let it happen. We have a thing under the IJC that a province can designate any watershed a priority watershed. We've never done it, in spite of requests from municipalities and conservation authorities, and suddenly we're going to have GFIs? There are tools—there may be future tools—and to say everything has to be a GFI I think is prescriptive.

I have serious misgivings about the council. I articulated the last time I deputed in this room that it's going to take 10 years to figure out who's going to be on it, how it's going to work, what the staffing is going to be and what the changes are going to be. Everybody in the NGO community is supporting it because they want to be on it. I just think it's going to take seven to 10 years out of ministries in moving forward. It's all going to be focused on serving the Great Lakes council. I think there are so many other things that could be done. This is supposed to be enabling legislation; well, give the ministers—that was the other thing we got into the bill; MNR is written into this bill as well, not just MOEC—their authority and let them do their job. Why are we prescribing these incredibly complex things that could change and could get in the way of specific actions?

Ms. Lisa M. Thompson: I really appreciate it. Thank you.

The Chair (Mr. Grant Crack): Thank you. Mr. Tabuns?

Mr. Peter Tabuns: Andrew, thanks for being here this afternoon. The questions that I wanted to ask have been asked by colleagues. You and I had a chance to talk

previously, and I think I have a pretty clear idea of where you're going with this. So I just want to thank you for the presentation.

Chair, I have no further questions.

Mr. Andrew McCammon: Thank you, all.

The Chair (Mr. Grant Crack): Thank you, Mr. McCammon, for coming before the committee this afternoon.

Before we adjourn, I would just like to remind all members of the committee that the deadline for filing amendments is tomorrow, Friday, September 25, at noon. You would file those with the Clerks' office.

Having said that, the House will be adjourning at about 6 o'clock, but I would like to, on your behalf, adjourn this meeting and thank you for your hard work today. Adjourned.

The committee adjourned at 1736.

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Standing Committee on General Government

Great Lakes Protection Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015 sur la protection
des Grands Lacs



Chair: Grant Crack
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 28 September 2015

Lundi 28 septembre 2015

*The committee met at 1401 in committee room 2.*GREAT LAKES PROTECTION ACT, 2015
LOI DE 2015 SUR LA PROTECTION
DES GRANDS LACS

Consideration of the following bill:

Bill 66, An Act to protect and restore the Great Lakes-St. Lawrence River Basin / Projet de loi 66, Loi visant la protection et le rétablissement du bassin des Grands Lacs et du fleuve Saint-Laurent.

The Chair (Mr. Grant Crack): Good afternoon, everyone. I'd like to call the committee meeting to order. This is the Standing Committee on General Government. I'd like to welcome all members of the committee, as well as members of the public and staff who are here with us this afternoon.

Today we're here to go through the clause-by-clause consideration of the amendments to Bill 66, An Act to protect and restore the Great Lakes-St. Lawrence River Basin. There were 51 amendments submitted by the deadline of September 25, 12 noon, of this year.

I would just like to remind all the members of the order from the House, and I shall read that to you:

"That at 4 p.m. on Monday, September 28, 2015, those amendments which have not yet been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. At this time"—4 p.m.—"the Chair shall allow one 20-minute waiting period, pursuant to standing order 129(a);

"That the committee shall report the bill to the House no later than Thursday, October 1, 2015...."

So we do have another session, on Wednesday, as well. We'll see what type of progress we can make this afternoon on the clause-by-clause consideration.

Having said that, are there any general comments or discussion prior to commencement of clause-by-clause? Mr. Tabuns?

Mr. Peter Tabuns: Yes. Mr. Chair, as I had mentioned to you earlier, I'm asking for unanimous consent to vary the order of consideration of the motions. I have a motion, 33, that would substantially change section 9. It would separate out the powers of the Minister of Natural Resources. Given the timeline you just set out, I'd like to

seek unanimous consent now to have that motion, 33, considered at the beginning of debate on section 9.

The Chair (Mr. Grant Crack): Okay. Thank you very much. Mr. Tabuns has asked for unanimous consent to deal with the new section 9.1 prior to the actual section 9. Do we have unanimous consent? I heard a no.

Mr. Peter Tabuns: As did I, Mr. Chair. As did I.

The Chair (Mr. Grant Crack): Thank you very much. Are there any further questions or comments? Ms. Mangat?

Mrs. Amrit Mangat: Thank you, Chair. Chair, I would like to do opening remarks.

The Chair (Mr. Grant Crack): Go ahead.

Mrs. Amrit Mangat: Chair, I'm pleased that Bill 66, the proposed Great Lakes Protection Act, is moving its way through the committee process. Our government has been working to move forward on legislation to protect and restore our Great Lakes. As you know, this is the third version of this bill that our government has brought forward. Every time it has changed it has been improved; it has been strengthened. There has been a huge amount of consultation on Bill 66.

I would like to thank everyone who has contributed to the bill on both sides of the House, as well as our partners throughout the province. I want to thank all those who have participated and brought their ideas, concerns and passions for the Great Lakes to our discussions, such as First Nations and Métis, municipalities, farmers, conservation authorities, industry, cottagers, scientists and the people of Ontario.

Mr. Chair, in this committee we heard many valuable and positive comments from 24 presenters and received countless written submissions on different perspectives. What is clear is that many people care deeply and passionately about their Great Lakes. This proposed act recognizes the importance of the Great Lakes to Ontario's environment, economy and people. Healthy Great Lakes are vital to the success of our province.

We all know that 98% of Ontarians live within the Great Lakes and St. Lawrence River watershed. Ontario has over 10,000 kilometres of Great Lakes shoreline, and 80% of Ontarians get their drinking water from the Great Lakes. The Great Lakes contain one fifth of the world's fresh water.

The Great Lakes regional economy is the fourth largest in the world. It contributes billions of dollars to our economy through agriculture, power generation, tourism, recreation, etc. The basin supports a wide area

of plants and animals, a rich ecosystem which is unique in the world. The Great Lakes power our homes and factories. They irrigate our farms and help transport goods to market.

Ontarians and visitors are attracted to their beautiful waters, waterfronts, beaches, campgrounds and parks. They are truly the envy of a world where fresh water is in an ever-diminishing supply. We must act to protect the Great Lakes and, where they are in decline, restore them to good health and ensure they are drinkable, swimmable and fishable.

In the last five to 15 years, unique changes have been recorded in the health of the Great Lakes. The lakes are under increasing stress from harmful pollution, urban growth, hardening of shorelines, invasive species, loss of natural habitats such as wetlands, and the changing climate.

Chair, I would like to briefly touch upon what this proposed bill sets out to do. The proposed Great Lakes Protection Act is enabling legislation. It includes flexible tools to work with local organizations, builds on existing programs and partners with groups for targeted action. That is why we need new initiatives to help the Great Lakes. The proposed Great Lakes Protection Act is designed to give new tools to restore and protect our Great Lakes so that they are drinkable, swimmable and fishable.

The purposes of the proposed act are: to protect and restore the ecological health of our Great Lakes and St. Lawrence River basin; and to create opportunities for individuals and communities to become involved in the protection and restoration of the ecological health of the Great Lakes-St. Lawrence River basin.

The proposed act would ensure partnership by establishing a Great Lakes Guardians' Council to provide a collaborative forum among the Great Lakes ministers and aboriginal, business, agriculture, environmental and municipal representatives to share information, identify priorities and marshal resources. Chair, we know that no man is an island. We always benefit from the ideas and advice of others.

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This act would further require monitoring and reporting programs. And this act would enable the minister to set Great Lakes science-based targets, including reducing algal blooms, and the Ministry of Natural Resources and Forestry to set wetland targets. This will require the minister to maintain the Great Lakes strategy, the first Ontario road map which lays out provincial priorities for Great Lakes protection. Further, it will also allow consultation and enable the establishment of geographically focused initiatives.

Chair, the message is clear: We cannot wait. Without the Great Lakes we wouldn't have the province we have today.

During the committee process, I spoke about how passionate and dedicated our government and our leaders are when it comes to environmental issues. "North America's Largest Environmental Organization

Honours" our former Premier "Dalton McGuinty." Diane Beckett, interim executive director of the Sierra Club Canada Foundation, said, "We honour those who, despite significant challenges, make the right decisions for our environment. Premier McGuinty persevered in the face of strong dissenting forces to close power plants and create a green power industry in Ontario. No other government leader in North America has made a greater contribution to fighting climate change."

Yesterday, I was reading the Toronto Star and it mentioned that our current Premier, the Honourable Kathleen Wynne, and Premier Philippe Couillard were honoured for their leadership on climate issues. It's great news. It shows the incremental leadership of our leaders—the former and the current one.

Having said that, Chair, our future and our families' future depend on healthy Great Lakes and their ecosystems. We all have a stake in the success of our province. Our success is deeply entwined in the health of our Great Lakes.

Ontarians have shown that they deeply and passionately care about their Great Lakes. Let's channel that shared love of our Great Lakes to work together to move this bill through committee. Thank you, Chair.

The Chair (Mr. Grant Crack): Thank you, Ms. Mangat. Any further questions or comments? Ms. Thompson.

Ms. Lisa M. Thompson: Thank you very much, Chair. I just want to share, on behalf of my colleague from Stormont-Dundas-North Glengarry—

Mr. Jim McDonell: South.

Ms. Lisa M. Thompson: —South Glengarry. Darn it. Sorry, I was looking at you.

I really want to share that we all care about the Great Lakes. The environment isn't painted by any political stripe. We all want to put our best foot forward. In that spirit, we actually have to make sure that everyone is aware that we do have concerns with even this third kick at the proverbial ball, so to speak, with Bill 66.

First of all, we have all seen how the stripping of local autonomy—proverbial and subliminal—has impacted rural Ontario with the Green Energy Act. We can't have a do-over with this particular bill because there is much to worry about in that regard—the manner in which it's written. The guardians' council in particular is one area of this bill that could potentially usurp, if you will, any municipal autonomy and burden local folks with red tape. So we raise a flag in that regard.

Over and above that, there's the definition of "geographically funded initiatives." Not once have we heard where the government is planning on pulling dollars from to fund GFIs. When I've been out and about, talking to people about Bill 66, volunteers who are involved in a very successful watershed, the Pine River watershed, are worried they're going to lose their funding and be handcuffed because that funding might get pulled away to offset GFIs. That's just one example that I specifically can name from my local riding.

Another issue is, we implore this government to recognize that enough is enough. When we're losing

manufacturers and the demand for electricity and energy, we don't need to be building industrial wind turbines in the Great Lakes.

Just this past weekend, I had the honour to join my colleague across the floor from Kingston. We attended the Great Lakes Legislative Caucus. On Friday, we participated in a little field trip where we learned about all of the good things that are happening along the Buffalo shoreline of Lake Erie. It was interesting. They maybe had five small turbines in an area that was uninhabited. It was old industrial land. They weren't turning, which is typically the case in my riding when we look at the turbines as well. When we talked specifically about putting them into the Great Lakes, it's interesting because the one manager from Riverkeeper said, "That would become a huge issue if anyone ever tried to put it into the Great Lakes."

Again, we raised that as a flag because we don't have any assurances from government to date that they will have a moratorium with offshore turbines. We can't even get them to have a moratorium on onshore turbines. We worry about that, and the lack of respect for landowners, and, lastly, we also worry about the application of the rural lens. It wasn't too long ago that we heard, at ROMA/Good Roads, the Premier specifically touting the merits behind the application of a rural lens on all initiatives that come out of government.

PMB work as well, to be fair. I just hope that people recognize that we need people to walk their talk, because when we studied Bill 66, it potentially can impact other legislation that's already in place. I want to revisit that: the Planning Act, the Condominium Act, the Greenbelt Act, the Niagara Escarpment Planning and Development Act, the Oak Ridges moraine conservation act, the Places to Grow Act and the Lake Simcoe Protection Act.

Bill 66, as it's written today, has the opportunity to usurp and undo some really good legislation that's already in place. I'd be remiss if I didn't recognize environmental farm plans and the Nutrient Management Act as well. We already have a number of agreements in place, and that includes the Canada-Ontario agreement.

We have to make sure that in 2015 we're coming forward with legislation that makes sense and that enables people to protect our Great Lakes as opposed to taking away autonomy and taking away funding from good projects that are already happening. It will be interesting to see how the motions go this afternoon. Thank you, Chair.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Thompson. Any further questions or comments?

Mr. Peter Tabuns: I'm here for amendments. Let's go.

The Chair (Mr. Grant Crack): Very good, sir.

Thank you very much for the opening remarks. We shall begin clause-by-clause consideration of the bill. We will move to part I, which is "Purposes and Interpretation." There is NDP motion number 1 on subsection 1(2), paragraph 2. Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Chair. I move that paragraph 2 of subsection 1(2) of the bill be amended by striking out "other coastal areas" and substituting "coastal areas".

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Mr. Tabuns.

Mr. Peter Tabuns: I think the need for it is obvious. I ask for a recorded vote.

The Chair (Mr. Grant Crack): Okay. There is a recorded vote request.

Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Chair. We support this motion. Many in the government have also heard from stakeholders throughout this committee process on the need for this change. It is similar to the government motion number 2, so we will support this motion.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? There being none, I shall call for the vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, McDonell, Tabuns, Thompson.

The Chair (Mr. Grant Crack): The motion is carried.

We shall move to government motion number 2, on subsection 1(2), paragraph 2. Ms. Mangat.

Mrs. Amrit Mangat: Chair, we withdraw it. The government withdraws this motion as it is similar to the motion number 1, which was just voted upon.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to amendment number 3, NDP motion subsection 1(2), paragraph 3. Mr. Tabuns.

Mr. Peter Tabuns: Chair, I move that paragraph 3 of subsection 1(2) of the bill be amended by adding, "including critical habitat areas for migratory birds, bats and insects, such as important bird and biodiversity areas" at the end.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Ms. Mangat.

Mrs. Amrit Mangat: Chair, the government recognizes the need to protect critical habitats. However, this motion is unnecessary given that the sub-purpose already speaks to the need to protect and restore natural habitats and biodiversity. So we will not support this motion.

The Chair (Mr. Grant Crack): Thank you. Any further discussion?

Mr. Peter Tabuns: A recorded vote.

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The Chair (Mr. Grant Crack): Mr. Tabuns—recorded vote.

No further discussion? I shall call for the vote.

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): NDP motion number 3 is defeated.

We shall move to NDP motion number 4.

Mr. Peter Tabuns: I move that paragraph 4 of subsection 1(2) of the bill be amended by adding “including by effectively managing urban and rural storm water, promoting green infrastructure, and protecting and restoring wetlands” at the end.

The Chair (Mr. Grant Crack): Any further discussion on the motion? Ms. Mangat.

Mrs. Amrit Mangat: Chair, the government recognizes the need for the proposed act to address climate change and make changes to the current bill to highlight this need in the purposes of the bill; however, the government will not support this motion. It's not necessary.

The Chair (Mr. Grant Crack): Further discussion. Mr. Tabuns.

Mr. Peter Tabuns: I think it is necessary. I ask for a recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Any further discussion? There being none, I shall call the vote.

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I shall declare the result: motion lost.

Mr. Joe Dickson: Question?

The Chair (Mr. Grant Crack): We have a question from Mr. Dickson.

Mr. Joe Dickson: Mr. Chair, if I may: On item number 2, on the withdrawal, there is no vote required. Correct?

The Chair (Mr. Grant Crack): There is no vote on a withdrawal; that's correct, sir.

Mr. Joe Dickson: Absolutely. Okay. Thank you.

The Chair (Mr. Grant Crack): We have amendments. One amendment passed, on section 1. Shall section 1, as amended, carry? It is carried. Section 1, as amended, is carried.

We shall move to section 2. There are no amendments. Any further discussion on section 2? Shall section 2 carry? Any opposed? Section 2 is carried.

We shall move to section 3. We have NDP motion number 5 to section 3: definition of important bird and biodiversity areas. Mr. Tabuns.

Mr. Peter Tabuns: I move that section 3 of the bill be amended by adding the following definition:

“‘important bird and biodiversity areas’ means areas identified as such from time to time under the Important Bird and Biodiversity Areas program, as listed on the website of BirdLife International.”

The Chair (Mr. Grant Crack): Any further discussion? Ms. Mangat.

Mrs. Amrit Mangat: The government doesn't support this motion as it is unnecessary, given that the bill already provides for those provisions and protections. This motion is consequential to motion number 3, which the government voted against.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. Peter Tabuns: A recorded vote.

The Chair (Mr. Grant Crack): There has been a request by Mr. Tabuns for a recorded vote.

No further discussion? I shall call the vote. Those in favour of NDP motion number 5?

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare the motion lost.

We shall move to PC motion number 6, section 3, definitions of Lake Erie basin, Lake Huron basin, Lake Ontario basin, Lake Superior basin and St. Lawrence River basin. Ms. Thompson.

Ms. Lisa M. Thompson: I move that section 3 of the bill be amended by adding the following definitions:

“‘Lake Erie basin’ means,

“(a) the part of Ontario, the water of which drains into Lake Erie, including the part of Lake Erie that is within Ontario, or

“(b) if the boundaries of the area described by clause (a) are described more specifically by the regulations, the area within those boundaries;

“‘Lake Huron basin’ means,

“(a) the part of Ontario, the water of which drains into Lake Huron, including the part of Lake Huron that is within Ontario, or

“(b) if the boundaries of the area described by clause (a) are described more specifically by the regulations, the area within those boundaries;

“‘Lake Ontario basin’ means,

“(a) the part of Ontario, the water of which drains into Lake Ontario, including the part of Lake Ontario that is within Ontario, or

“(b) if the boundaries of the area described by clause (a) are described more specifically by the regulations, the area within those boundaries;

“‘Lake Superior basin’ means,

“(a) the part of Ontario, the water of which drains into Lake Superior, including the part of Lake Superior that is within Ontario, or

“(b) if the boundaries of the area described by clause (a) are described more specifically by the regulations, the area within those boundaries;

“‘St. Lawrence River basin’ means,

“(a) the part of Ontario, the water of which drains into the St. Lawrence River, including the part of the St. Lawrence River that is within Ontario, or

“(b) if the boundaries of the area described by clause (a) are described more specifically by the regulations, the area within those boundaries;”

The Chair (Mr. Grant Crack): Semi-colon.

Ms. Lisa M. Thompson: Yes, semi-colon.

The Chair (Mr. Grant Crack): Just didn’t want you to miss one.

Ms. Lisa M. Thompson: Thank you, yes. Appreciate it.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Thompson. Any discussion on the motion? Ms. Hoggarth.

Ms. Ann Hoggarth: I just want to ask, rather than us asking individually for recorded votes: We would like recorded votes on all votes, please.

The Chair (Mr. Grant Crack): Okay, there has been a request for recorded votes on all votes, so we shall proceed in that manner. Thank you very much. Any further discussion on PC motion number 6? Ms. Thompson.

Ms. Lisa M. Thompson: Chair, thank you very much. I feel that this particular motion is very important because we heard during deputations, quite loudly and clearly last week, that people are concerned with one overarching initiative, and that, really, to treat and protect the Great Lakes, they need to be recognized in their individual environments, so to speak. The definitions that I just shared are a prerequisite for the purpose of creating five sub-councils to the guardians’ council. This motion was requested by numerous groups, as I mentioned, during the committee hearings, and especially those in the agricultural sector. Having these subcommittees will more completely involve local industries, stakeholders and municipalities. Having a more inclusive approach through these subcommittees will result in more informed decisions made by the greater council.

The Chair (Mr. Grant Crack): Thank you, Ms. Thompson. Any further discussion? Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Chair. The government understands that this motion is related to future motion number 8 to establish committees on the Great Lakes Guardians’ Council. The government doesn’t support this motion, though it agrees with the general concept, and has filed its own alternate motion, government motion 16, which allows for a more flexible and effective approach to ensuring that the council could be convened to discuss various geographic areas of focus, including lakes and watersheds.

The Chair (Mr. Grant Crack): Thank you, Ms. Mangat. Any further discussion? There being none—again, recorded vote. I shall call a vote.

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare PC motion 6 lost.

We shall move to PC motion 7, which is an amendment to section 3, the definition of “public body.” Ms. Thompson.

Ms. Lisa M. Thompson: Thank you. I move that the definition of “public body” in section 3 of the bill be struck out and the following substituted:

“‘public body’ means a municipality, a local services board within the meaning of the Northern Services Boards Act, a conservation authority or a body prescribed by the regulations or an official of such a body; (‘organisme public’)”

The Chair (Mr. Grant Crack): Any further discussion on PC motion 7? Ms. Mangat.

Mrs. Amrit Mangat: Chair, the government doesn’t support this motion. The aspect of this proposed act, like many others, is identical to that of the Lake Simcoe Protection Act, which received all-party support and is viewed as a model watershed act, so we will not support this motion.

The Chair (Mr. Grant Crack): Thank you, Ms. Mangat. Any further discussion? Ms. Thompson.

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Ms. Lisa M. Thompson: Thank you very much, Chair. It’s important to recognize that municipalities are consulted and respected when making decisions that ultimately will affect their local communities. The current wording invites far too many groups to come in and have direct authority over local initiatives when creating geographically focused initiatives. I can’t stress enough: We already have a case in hand that has seen Ontario communities suffering from a lack of local community decision-making because the Green Energy Act has stripped all that local autonomy away. We do not need a repeat of that.

The Chair (Mr. Grant Crack): Thank you, Ms. Thompson. Any further discussion? There being none, I shall call for the vote—a recorded vote.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion number 7 defeated.

We shall move to section 3 in its entirety. There were three proposed amendments; none carried. Shall section 3 carry? Those in favour? A recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare section 3 carried.

We shall move to part II of the bill, "Great Lakes Guardians' Council." We have PC motion number 8, which is on new subsections 4(1.1) and (1.2). Ms. Thompson.

Ms. Lisa M. Thompson: Mr. McDonell. We're tagging today.

The Chair (Mr. Grant Crack): Sorry. Mr. McDonell.

Mr. Jim McDonell: I move that section 4 of the bill be amended by adding the following subsections:

"Council subcommittees

"(1.1) The minister shall establish subcommittees of the council to represent the following geographic areas within the Great Lakes-St. Lawrence River basin at meetings of the council:

"1. The Lake Erie basin.

"2. The Lake Huron basin.

"3. The Lake Ontario basin.

"4. The Lake Superior basin.

"5. The St. Lawrence River basin.

"Composition of subcommittees

"(1.2) Subject to any rules prescribed by the regulations with respect to the composition of each subcommittee, each subcommittee shall be composed of representatives of the interests mentioned in clauses (3)(b), (c) and (d) in the geographic area represented by the subcommittee."

The Chair (Mr. Grant Crack): Thank you very much, Mr. McDonell. Any further discussion on the proposed amendment? Ms. Mangat.

Mrs. Amrit Mangat: The government agrees with the general concept that the council must be able to be structured so that it can focus its attention on a specific Great Lake watershed or a specific geographic area within the watershed. The government has filed its own motion, an alternate motion, number 16, which allows for a more flexible and effective approach. So we will not support this motion.

The Chair (Mr. Grant Crack): Thank you, Ms. Mangat. Any further discussion? Mr. McDonell.

Mr. Jim McDonell: I just think that the Great Lakes area is a huge area, vastly different in climate, region and geography. I'm somewhat surprised she wouldn't want to

be a little more specific. Lake Ontario covers a huge amount, and just to split that area off itself—the St. Lawrence River basin goes all the way from Kingston right to the Quebec border. They are different. They do have different issues. I think it's a requirement that we attract local interests that belong to each specific region instead of gathering, in every case, a large number to talk about specific issues for the whole region, and narrowing it down so the specific issues have a forum to be discussed.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion? There being none, I shall call for the recorded vote.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion number 8 defeated.

We shall move to PC motion number 9, an amendment to subsection 4(3). Mr. McDonell.

Mr. Jim McDonell: I move that subsection 4(3) of the bill be amended by striking out the portion before clause (a) and substituting the following:

"Invitations to meetings

"(3) Before a meeting of the council is held, the minister shall announce the date of the meeting to the public and shall announce that any individuals who are interested in attending may attend and participate in the meeting, including,"

The Chair (Mr. Grant Crack): Any further discussion on PC motion number 9?

Mrs. Amrit Mangat: Although the government will not be voting in favour of this motion, it fully supports the need for public involvement in the implementation of this bill. It would be both unwieldy and logistically difficult to manage. One of the key purposes of the bill is to create opportunities for individuals and communities to become involved in the protection and restoration of the Great Lakes. We will not vote in favour of this.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. Jim McDonell: I'm just somewhat surprised. If you're truly going to receive public input, you should give the public a chance to be heard. Just as in these committees here, we have an opportunity to advertise and listen to the public at large comment on our bills. There are ways of limiting numbers if the numbers get too large, but to have the government technically choose exactly who they want to hear from can be very dangerous, I believe. We will be supporting this motion.

The Chair (Mr. Grant Crack): Any further discussion?

Ms. Ann Hoggarth: I understand your concern, but we're not voting in favour of this motion because the government intends to develop, with the stakeholders, operating procedures for the Great Lakes Guardians' Council. These procedures would include mechanisms to ensure future council meetings are visible and transparent and allow for the public to be involved. They may, for example, specify the need for website updates and mechanisms for public participation at future meetings.

The Chair (Mr. Grant Crack): Thank you, Ms. Hoggarth. Ms. Mangat?

Mrs. Amrit Mangat: Chair, the proposed act also allows the public, through section 30, to request that the minister establish a target or direct development of an initiative. These are powerful tools allowing for public participation and influence in a variety of mechanisms.

The Chair (Mr. Grant Crack): Thank you, Ms. Mangat. Ms. Thompson?

Ms. Lisa M. Thompson: With all due respect, Chair, we have already seen what transparency means to this government, and this would just allow a strong message going forward that the public's input does matter. In order to facilitate it, they need to know the dates and timing of the meetings.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the vote, which is a recorded vote.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare PC motion number 9 defeated.

We shall move to PC motion number 10, which is an amendment to clause 4(3)(a).

Mr. Jim McDonell: I move that clause 4(3)(a) of the bill be amended by adding "and critics for environment and climate change from both opposition parties" at the end.

The Chair (Mr. Grant Crack): Any further discussion?

Mrs. Amrit Mangat: The proposed act already requires consultation with MPPs from the area on geographically focused initiatives prior to the minister directing any such proposal to be developed, so we will not support this motion.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. Jim McDonell: Again, in the spirit of transparency, I'm not sure why you wouldn't want members of all parties involved, whether they're in the government or outside. Generally, there are a large number of members from the opposition, and their views do represent the rest

of the province that's not inside the government, and they're important as well.

The Chair (Mr. Grant Crack): Any further discussion?

Ms. Ann Hoggarth: Very clearly, this bill allows for MPPs to be involved. It doesn't name any specific party, so for that reason, we will not support this.

The Chair (Mr. Grant Crack): Ms. Mangat?

Mrs. Amrit Mangat: Chair, the Great Lakes Guardians' Council would bring together senior decision-makers in government, the private sector, the agriculture community, non-government, and First Nation and Métis communities to align efforts and strengthen Ontario's position at national and binational discussions. There will be a lot of public consultation in this form, so we will not support this motion.

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The Chair (Mr. Grant Crack): Ms. Thompson.

Ms. Lisa M. Thompson: Again, we have to take a look at the transparency that is going to be lost in this bill, because Bill 66 specifically prescribes that the guardians' council will be made up of individuals who are invited by the minister. In the spirit of transparency, you have to wonder what they have to hide, if they don't want to bring forward the critics of both the opposition and third party. It only makes sense.

Like I said in my opening comments, we all care about our Great Lakes. We all want to put our best foot forward. This should never be painted by one political stripe. I think it's a very sad state of affairs if they choose to exclude the critics of both the opposition and third party.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call for the recorded vote.

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare PC motion number 10 defeated.

We shall move to PC motion number 11, which is new clauses 4(3)(a.1) and (a.2). Ms. Thompson.

Ms. Lisa M. Thompson: Very good. I'm going to follow the lead established by my colleague here. I move that subsection 4(3) of the bill be amended by adding the following clauses:

"(a.1) for each geographic area in respect of which the minister intends to direct or has directed a proposal for an initiative to be developed or in respect of which an initiative is being developed or implemented,

"(i) each member of the assembly representing a constituency that is located in whole or in part in the area,

“(ii) the mayor of each municipality that is located in whole or in part of the area, and

“(iii) a representative of each local services board within the meaning of the Northern Services Boards Act that is located in whole or in part in the area;

“(a.2) each member of the assembly representing a constituency that may, in the opinion of the minister, be affected by an initiative;”

The Chair (Mr. Grant Crack): Thank you, Ms. Thompson. Just for clarification, could you read section (ii), where it starts with “the mayor” just one more time, please?

Ms. Lisa M. Thompson: Okay. “(ii) the mayor of each municipality that is located in whole or in part in the area, and”

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion on PC motion number 11? Mrs. Mangat.

Mrs. Amrit Mangat: As mentioned earlier in response to requests at the previous standing committee for Bill 6, the government revised Bill 66 to incorporate many of the suggestions that the other parties made when it was before the standing committee in the fall of 2014. At that time, it was Bill 6.

The Great Lakes Guardians’ Council would bring together senior decision-makers, as I said earlier—the private sector, the agricultural community, non-government, First Nations and Métis communities—to align efforts and strengthen Ontario’s position at national and binational discussions. Wherever a local issue is being discussed, the intent would be to involve and invite local decision-makers to consult meetings.

The government wouldn’t support this motion.

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: I think that the people of Ontario spoke very loudly, at least in rural Ontario. They’re getting tired of legislation being made without their input. This only allows their input. It doesn’t force you to act on it, but it allows you to hear the concerns of regions. If you’re making legislation or changes to an initiative that affects a community, one would think you’d want to know how it might be affected before you make decisions, so that you can weigh whether it’s in the national or international interest, or if there’s an issue that maybe needs to be compensated in some way. But if you don’t listen to the local issues, you won’t hear them.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion? Ms. Thompson.

Ms. Lisa M. Thompson: I think it’s really important to let the local decision-makers know that their voice matters as well. I think that supporting this particular motion is very important. Along the shoreline of Lake Huron specifically, we have four different municipalities, and each one respectively has their own issues and their own part of the lake that they have to deal with. Over and above that, currently, one of those four mayors sits as chair of the Great Lakes mayors’ initiative. He could bring a wealth of knowledge to the guardians’ council.

I think it’s absolutely closed-minded and very much dangerous to exclude these people from around the table. Everybody here today should be supporting this motion.

The Chair (Mr. Grant Crack): Thank you, Ms. Thompson. Ms. Kiwala.

Ms. Sophie Kiwala: These amendments included a requirement for consultation with MPPs who are within an area of a proposed geographically focused initiative. This consultation would take place before the minister directed an initiative proposal to be developed. Thank you, Mr. Chair.

The Chair (Mr. Grant Crack): Thank you very much. Ms. Hoggarth.

Ms. Ann Hoggarth: The member of the opposition who spoke spoke as if the mayors couldn’t come. It does not mean that the mayors could not be involved; it just does not guarantee them the right.

The Chair (Mr. Grant Crack): Thank you, Ms. Hoggarth. Any further discussion? Ms. Thompson.

Ms. Lisa M. Thompson: The fact of the matter is—two things: I’d like to correct my record. I believe I said I have four municipalities along the lakeshore of Lake Huron. Actually, it’s five. My second point that I’d like to make during this discussion is that it just is what it is. I’m being straight up when I say this: I know a lot of mayors in my area just don’t trust this government to get it right. Thank you.

The Chair (Mr. Grant Crack): Ms. Mangat.

Mrs. Amrit Mangat: I don’t agree with the member. Many municipalities are already involved in the discussions. They have given their input and they will continue to give their input.

The Chair (Mr. Grant Crack): Any further—Mr. McDonell.

Mr. Jim McDonell: I just want to add to that. There is some concern that these municipalities won’t be heard, just as the neonics issue was not heard. They weren’t invited to the table; they weren’t asked; the directions came out. It’s not that this is without precedent. We see this all the time. So yes, they are concerned that they won’t be heard, they won’t be asked and they won’t be listened to, for sure.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? There being none, I shall call for the recorded vote.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion 11 defeated.

We shall move to PC motion 12, which is a new clause, 4(3)(d.1). Ms. Thompson.

Ms. Lisa M. Thompson: I move that subsection 4(3) of the bill be amended by adding the following clause:

“(d.1) representatives of the interests of each subcommittee established under subsection (1.1);”

The Chair (Mr. Grant Crack): Thank you very much. I shall call this motion out of order as it was dependent on PC motion 8 passing. I apologize. We shall continue to move forward.

We shall move to PC motion number 13, which is an amendment to clause 4(3)(e). Ms. Thompson.

Ms. Lisa M. Thompson: I move that clause 4(3)(e) of the bill be struck out and the following substituted:

“(e) representatives of any other interests related to the ecological health of the Great Lakes-St. Lawrence River basin.”

The Chair (Mr. Grant Crack): Thank you, Ms. Thompson. Any further discussion? Ms. Mangat.

Mrs. Amrit Mangat: Chair, the government wouldn't support this motion. The motion is unnecessary as the bill already allows for other interests that the minister considers advisable to be invited to the council meetings.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Ms. Thompson.

Ms. Lisa M. Thompson: I feel very strongly that it's important to support this motion because the last thing we need the guardians' council to become is a small group of friends and allies of the minister. We really worry about that.

The Chair (Mr. Grant Crack): Any further discussion? Ms. Mangat.

Mrs. Amrit Mangat: I don't agree with that. The guardians' council would invite a wide range of people, coming from business, agriculture, aboriginal groups, environmental groups and municipal representatives, to share information.

The Chair (Mr. Grant Crack): Thank you. Mr. McDonell.

Mr. Jim McDonell: This clause just guarantees that the procedures will be held as the government says they will, that it invites a larger area than just the friends and allies of this government. As it sits now, there are no guarantees. People outside the big city of Toronto have seen the effects of this government's ability to listen to people and invite them to various key issues in their areas, and that is that they haven't been invited. This just requires that these people are listened to. Again, there's nothing wrong with getting all the issues in an area, let alone just a select group that you want to hear.

1450

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Ms. Hoggarth.

Ms. Ann Hoggarth: I understand where you're coming from, but I do not believe that this is necessary since the bill already says “or any other person,” so anyone could basically be invited to come to that.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the recorded vote.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I shall call PC motion 13 defeated.

PC motion 14, an amendment for a new subsection, 4(3.1): Mr. McDonell.

Mr. Jim McDonell: I move that section 4 of the bill be amended by adding the following subsection:

“Agricultural sector representation

“(3.1) When extending invitations to representatives of the interests of the agricultural sector under clause (3)(d), the minister shall ensure invitations are extended to representatives from throughout the entire Great Lakes-St Lawrence River basin.”

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion? Ms. Mangat.

Mrs. Amrit Mangat: The government is highly supportive of involving the agricultural community and has highlighted this in the proposed act by providing them with a seat at the at the guardians' council and listing them as critical stakeholders who must be consulted with prior to making decisions. However, we will not support this motion.

The Chair (Mr. Grant Crack): Further discussion? Ms. Thompson.

Ms. Lisa M. Thompson: I feel that the government is very remiss in saying that they're not going to be supporting this motion because again, the fact of the matter is that the elements that each Great Lake faces in this great province are very different. Erie to Ontario to Huron to Superior: They all have their own different pressures. Again, we can't stress enough that it's the people at the local level who know best what's going on. I'll just be straight up; it's going to be an absolute misstep if you don't guarantee that those local voices are heard.

The Chair (Mr. Grant Crack): Thank you. Ms. Mangat.

Mrs. Amrit Mangat: Chair, it singles out one group at the expense of others who also have an important stake in the protection of the Great Lakes. This would include municipalities, who are critical partners in the implementation of various aspects of the bill.

The Chair (Mr. Grant Crack): Any further—Mr. McDonell.

Mr. Jim McDonell: I think that anybody that was from, certainly, west of Toronto or Toronto that was down in our riding for the IPM last week realized that there's a vast difference in terrain as you cross this province. Crops are different. We're very much different than the warmer southwest part of the province. That's why grapes are not as big a crop in our area as they are in the south. Climates are different.

I think that when you're making changes to the legislation, you have to listen to all sectors so that one is not being sacrificed for another. If that's the necessity, at least you should hear the issues. If you don't hear the issues, it's an uninformed decision and you're creating issues that are affecting, really, our economy. I think everybody agreed last week that agriculture is the number one industry in this province, so why are you not interested in hearing issues that are affecting the number one industry plus the number one growth industry in this province? It's really short-sighted.

The Chair (Mr. Grant Crack): Ms. Thompson.

Ms. Lisa M. Thompson: There was one comment made by government that stuck with me: They don't want to include more agricultural-sector representation at the expense of others. Oh my goodness, with all due respect, I can't believe you just said that, because the exact opposite has happened to Ontario farmers with a select, small group of people making decisions on neonics. We're having a hypocritical moment here, Chair, that just blows my mind. Thank you.

The Chair (Mr. Grant Crack): Thank you. Ms. Mangat.

Mrs. Amrit Mangat: Chair, we are very supportive of involving the agricultural community. As I said earlier, the Great Lakes Guardians' Council is a collaborative and flexible forum which would bring together senior decision-makers in the government, private sector, agricultural community, non-government, First Nations and Métis communities to align efforts and strengthen Ontario's position at national and binational discussions. We very much respect the agricultural community. That is why they will be invited to the council.

The Chair (Mr. Grant Crack): Thank you, Ms. Mangat. Any further discussion?

There being none, I shall call for the recorded vote on PC motion number 14.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare PC motion 14 defeated.

We shall move to NDP number 15, which is new subsections (5), (6) and (7). Mr. Tabuns.

Mr. Peter Tabuns: I move that section 4 of the bill be amended by adding the following subsections:

"Report

"(5) The minister shall, within two months after each council meeting, publish a report summarizing the matters discussed at the meeting, the views expressed, the priorities identified, and the proposals that resulted.

"Availability

"(6) The report shall be published and maintained on a government website.

"Response on behalf of government

"(7) The report shall include a response prepared by the minister, after consultation with the other Great Lakes ministers, and the response shall include the government of Ontario's intended actions in response to the priorities identified at the meeting."

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Ms. Mangat.

Mrs. Amrit Mangat: While the government supports the need for transparency, it will not be supporting this motion as it doesn't feel that having this level of specificity with respect to council operations is necessary in legislation. This proposed legislation requires the minister to publish, every three years, a progress report and table it in the Legislature.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. Tabuns.

Mr. Peter Tabuns: It just seems reasonable to me that if the minister is consulting with stakeholders, with the guardian council, it will be of some consequence to the people of Ontario that there be publicly available reports on what was said and what the outcome is.

The Chair (Mr. Grant Crack): Thank you. Mr. McDonell.

Mr. Jim McDonell: I think if the government truly wants to be transparent and inclusive, they would certainly accept this motion.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion?

There being none, I shall call the recorded vote on NDP motion number 17.

Interjections: Fifteen.

The Chair (Mr. Grant Crack): Sorry?

Interjections: Fifteen.

The Chair (Mr. Grant Crack): Fifteen. My apologies. We've got to make a mistake once in a while.

Mr. Peter Tabuns: It's the nature of being a Chair.

The Chair (Mr. Grant Crack): It is.

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare NDP motion 15 defeated.

We shall move to government motion number 16, which is a new subsection (5).

Mrs. Amrit Mangat: I move that section 4 of the bill be amended by adding the following subsection:

"Meeting re particular watershed or geographic area

"(5) The minister may convene one or more meetings of the council for the purpose of focusing on one of the Great Lakes watersheds in the Great Lakes-St. Lawrence

River basin, or on a particular geographic area of the basin.”

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Mr. Tabuns.

Mr. Peter Tabuns: I note, Mr. Chair, that we checked with legal counsel on this. Apparently the minister would already have the power to do this under the act, so it would be redundant. But beyond that, we consulted with those who are interested in the bill—Ecojustice, Canadian Environmental Law Association, Environmental Defence—who all oppose this amendment, saying it could limit the scope of the annual meeting of the guardian council. Thus, I urge people to vote against this amendment.

The Chair (Mr. Grant Crack): Thank you. Mr. McDonell.

Mr. Jim McDonell: I’m just wondering: When they defeated motions that would allow them to designate certain regions, I’m not sure how they expect to be specific to a region. They don’t seem to match up.

The Chair (Mr. Grant Crack): Okay. Thank you. Ms. Mangat?

Mrs. Amrit Mangat: This motion responds to what was heard from various stakeholders, including the agricultural sector and environmental organizations who asked that the council address issues facing each of the lakes within the Great Lakes basin.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call for the recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

Nays

Tabuns.

The Chair (Mr. Grant Crack): I declare government motion 16 carried.

We shall move to PC motion 17, proposing a new subsection (5). Mr. McDonell.

1500

Mr. Jim McDonell: I move that section 4 of the bill be amended by adding the following subsection:

“Council considerations

“(5) The individuals who participate in meetings of the council shall ensure that, as part of the forum, the views of the following with respect to Ontario’s obligations under the agreements described in section 33 are taken into consideration:

“1. The International Joint Commission.

“2. The Great Lakes Water Quality Board.

“3. The Great Lakes Executive Committee to the Great Lakes Water Quality Agreement.

“4. The federal government.”

The Chair (Mr. Grant Crack): Further discussion on PC motion 17?

Mrs. Amrit Mangat: Chair, while the government doesn’t support this motion, it is important to note that we heard the importance of the need to consider agreements, and that is why we have included section 33 in the bill. This includes consideration of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement, the Great Lakes Charter, the Canada-Ontario Agreement Respecting the Great Lakes basin and the Great Lakes Water Quality Agreement, so we feel the motion being put forward is inappropriate, as it places a significant duty on all attendees of the council.

The Chair (Mr. Grant Crack): Ms. Thompson?

Ms. Lisa M. Thompson: We feel strongly that this motion would require the members of the council to consider Ontario’s obligations under other agreements, like the Canada-Ontario agreement. We’ve consistently maintained that this legislation is nothing more than duplication of other acts and agreements. We just ask that the government recognize the good work that has been done before Bill 66 and respect that.

The Chair (Mr. Grant Crack): Thank you, Ms. Thompson. Ms. Mangat?

Mrs. Amrit Mangat: Chair, these are complex agreements, and you cannot expect all attendees to be aware of the views of all other organizations.

The Chair (Mr. Grant Crack): Mr. McDonell?

Mr. Jim McDonell: Well, I agree: We do have obligations under other agreements. I would hope the committee would have the expertise—maybe not themselves, but the Legislative Assembly staff would be able to certainly let the committee know that their legislation is within or outside the scope of their mandates, or covered before by other agreements that they have to enforce. I can’t imagine a provincial government that hasn’t got the expertise to know if the federal government’s or other agreements are in place. If that’s the case, we’ve got real problems.

The Chair (Mr. Grant Crack): Any further discussion? There being none, we shall move to the recorded vote on PC motion 17.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I shall declare PC motion 17 defeated.

We shall move to section 4, on which there was one amendment. Any discussion on section 4? There being none, shall section 4, as amended, carry?

Ayes

Colle, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): Those opposed? I declare section 4, as amended, carried.

We shall move to part III, which is “Ontario’s Great Lakes Strategy,” which is section 5. There were no amendments.

Any discussion on section 5? There being none, shall section 5 carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): Those opposed? I declare section 5 carried.

We have a proposed new section 5.1, which is NDP motion 18: Mr. Tabuns.

Mr. Peter Tabuns: I move that the bill be amended by adding the following section:

“Duty on Great Lakes ministers

“5.1 The Great Lakes ministers shall, individually and together, pursue the achievement of the vision, goals and priorities set out in the strategy.”

The Chair (Mr. Grant Crack): Further discussion?

Mrs. Amrit Mangat: The government doesn’t support this motion, as it is unnecessary. The proposed act requires the strategy to be maintained regularly—reviewed and revised. Section 32 of the proposed act requires consideration of the purposes of the proposed act and principles of the strategy when Great Lakes ministers and other public bodies are making decisions to review the strategy, establish a target, prepare a plan related to a target or develop a geographically focused initiative.

The Chair (Mr. Grant Crack): Any further discussion?

Ms. Lisa M. Thompson: We just want to see a lot of coordination between the various ministries. For too long, siloed approaches have done nothing but cost the province money.

The Chair (Mr. Grant Crack): Thank you. Mr. Tabuns?

Mr. Peter Tabuns: I would say the same, that we have to avoid segmentation of this. There needs to be a unified approach by the ministers. It should be prescribed in legislation to reinforce that message.

The Chair (Mr. Grant Crack): There being no further discussion, I shall call the recorded vote on the proposed new NDP section 5.1, which was NDP motion 18.

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare NDP motion 18 defeated.

We shall move to section 6. With discussion with the Clerk, I would just like to advise members of the committee that number 20, which is PC motion 20, should be ahead of government motion 19. I shall direct the committee that we will deal with PC motion number 20, which is an amendment to section 6, subparagraph 4 i. It would be that PC motion 20 will go first.

Mr. McDonell.

Mr. Jim McDonell: I move that subparagraph 4 i of section 6 be amended by adding “that addresses individually and cumulatively all sources of stress to the Great Lakes-St. Lawrence River basin” at the end.

The Chair (Mr. Grant Crack): Any further discussion?

Mrs. Amrit Mangat: Chair, this motion is very similar to the government’s motion number 19, which achieves the same intent. The government suggests that this motion be withdrawn.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call for the recorded vote. Only the members who put forward the motion can actually withdraw. I respect your request. We’ll go to the recorded vote.

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare PC motion number 20 defeated.

We shall move to government motion 19, which is an amendment to section 6, subparagraph 4 i.

Mrs. Amrit Mangat: I move that subparagraph 4 i of section 6 of the bill be struck out and the following substituted:

“i. An ecosystem approach that includes the consideration of cumulative stresses and impacts.”

The Chair (Mr. Grant Crack): Any further discussion on government motion 19? Ms. Mangat.

Mrs. Amrit Mangat: Chair, new tools are needed to tackle escalating and emerging Great Lakes problems, so the proposed act gives the minister flexible tools to direct, target and require Great Lakes protection and restoration actions for addressing the cumulative impacts of different stresses on the ecosystem. We are in favour of this.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the recorded vote on government motion number 19.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, McDonell, Tabuns, Thompson.

The Chair (Mr. Grant Crack): I declare government motion number 19 carried.

There is one amendment to section 6. Is there any further discussion on section 6 in its—

Interjections.

The Chair (Mr. Grant Crack): Sorry. We have PC motion 21 on section 6, subparagraph 4 iv. Ms. Thompson.

Ms. Lisa M. Thompson: I move that subparagraph 4 iv of section 6 be amended by striking out “collaboration” and substituting “collaboration and the sharing of data”.

The Chair (Mr. Grant Crack): Any further discussion? Ms. Mangat.

Mrs. Amrit Mangat: Chair, the government supports this motion, as the intent for the proposed act to clarify a collaborative approach would include the sharing of data. This approach is consistent with the province’s goals to promote open data. Ontario is committed to being the most open and transparent government in Canada.

The Chair (Mr. Grant Crack): Any further discussion? Mr. McDonell.

Mr. Jim McDonell: I didn’t know this was comedy hour.

It’s the idea that there was work being done and the data should be shared. That’s the goal of the motion, and it just seems to be the right thing to do.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion?

There being none, I shall call for the recorded vote on PC motion number 21.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, McDonell, Tabuns, Thompson.

The Chair (Mr. Grant Crack): I declare PC motion number 21 carried.

Therefore, there were two amendments to section 6 that carried. Is there any further discussion on section 6, as amended? There being none, shall section 6, as amended, carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 6, as amended, carried.

We shall move to section 7, which is government motion number 22, an amendment to subsection 7(1), paragraph 1. Ms. Mangat.

Mrs. Amrit Mangat: I move that paragraph 1 of subsection 7(1) of the bill be struck out and the following substituted:

“1. Harmful pollutants, including microplastics.”

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Ms. Mangat.

Mrs. Amrit Mangat: We heard the need for monitoring of microbeads through the development of MPP Lalonde’s bill. This motion takes into consideration the private member’s bill and it recognizes Ontario as a leader in the monitoring of microplastics in the Great Lakes and will ensure that this monitoring of microplastics continues to progress.

The Chair (Mr. Grant Crack): Thank you, Ms. Mangat. Any further discussion on government motion 22? Ms. Thompson.

Ms. Lisa M. Thompson: We just want to recognize the work that the federal government has done in this regard as well. We support this.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Thompson. Any further discussion? There being none, government motion number 22—a recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, McDonell, Tabuns, Thompson.

The Chair (Mr. Grant Crack): I declare government motion number 22 carried. We shall move to—

Interjections.

The Chair (Mr. Grant Crack): I believe, Mr. Dickson, you had a comment? Mr. Dickson.

Mr. Joe Dickson: I have a request through you, Mr. Chair, to the committee. I’ve been in the Legislature this morning. This is my third successive meeting since getting out. I haven’t had a chance to powder my nose and do a couple of other things. I wonder if you might consider a five-minute break.

The Chair (Mr. Grant Crack): I would ask the committee to consider a five-minute break. Just keeping in mind the order of the House—

Interjections.

The Chair (Mr. Grant Crack): There will be a five-minute break for Mr. Dickson to powder his nose.

The committee recessed from 1513 to 1519.

The Chair (Mr. Grant Crack): All righty, our five minutes are up. I hope everybody made the best of the five-minute recess.

We will continue on section 7. We have government motion number 23, which is an amendment to subsection 7(1), new paragraphs 3.1 and 3.2. Ms. Mangat?

1520

Mrs. Amrit Mangat: I move that subsection 7(1) of the bill be amended by adding the following paragraphs:

“3.1 Hydrology.

“3.2 Biological communities.”

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion?

Mrs. Amrit Mangat: Chair, we heard from stakeholders at committee that there is a need to monitor for additional parameters, and we listened to them. These requirements for monitoring and reporting will help the

province and our partners improve understanding and management of the Great Lakes basin.

The provision would further provide transparency by requiring the minister to publicly report on these monitoring and reporting programs through progress reports on Ontario's Great Lakes Strategy.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion on government motion 23? There being none, I shall call for the recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

Mr. Grant Crack: I declare government motion 23 carried.

There were two amendments to section 7. Any final comments on section 7, as amended? There being none, shall section 7 carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare section 7, as amended, carried.

Section 8: There are no amendments. Is there any discussion on section 8?

There being none, shall section 8 carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 8 carried.

We shall move to part IV, "Targets," section 9. We have NDP motion 24, the amendment for a new subsection, 9(2.1).

Mr. Peter Tabuns: I move that section 9 of the bill be amended by adding the following subsection:

"Same

(2.1) Within a reasonable time after this section comes into force, the minister shall establish at least one target under subsection (1) in respect of each purpose of this act listed in subsection 1(2)."

The Chair (Mr. Grant Crack): Further discussion? Ms. Mangat?

Mrs. Amrit Mangat: While the government recognizes the need to establish targets, it doesn't support this motion. The proposed act provides flexibility to develop targets where appropriate and most in need, like those related to algae blooms, within two years. Developing a target and associated actions needs to be based on science and requires significant scientific research, consultation and analysis. The province will work with the Great Lakes council and the other Great Lakes partners to determine specific priority targets to be set. We will not support this motion.

The Chair (Mr. Grant Crack): Further discussion? Mr. Tabuns.

Mr. Peter Tabuns: Briefly, the bill will not actually deliver what's needed unless there are targets that are set by the minister and acted upon. We think it makes sense to have embodied in the bill a requirement for targets to be set within a reasonable time.

The Chair (Mr. Grant Crack): Thank you very much. Ms. Thompson?

Ms. Lisa M. Thompson: We need to be very careful here because we shouldn't be creating targets just for the sake of creating them. We need to rely on proper science. I have to underscore that. We need the proper science to inform our targets, and we can't prescribe how long research can take.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call for the recorded vote on NDP motion number 24.

Ayes

Tabuns.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare NDP motion 24 defeated.

We shall move to NDP motion 25, which is an amendment to subsection 9(3).

Mr. Peter Tabuns: I move that subsection 9(3) of the bill be amended,

- (a) by striking out "may" and substituting "shall"; and
- (b) by striking out "net".

The Chair (Mr. Grant Crack): Further discussion? Ms. Mangat.

Mrs. Amrit Mangat: The government doesn't support this motion. It is not necessary. The proposed act already provides authority for the Minister of Natural Resources and Forestry to establish quantitative or qualitative targets related to stopping the net loss of wetlands. Ontario understands the ecological importance of wetlands and is currently undergoing the review of Ontario's broad wetland conservation framework, with a view to developing a strategic plan for Ontario's wetlands. So we will not support this motion.

The Chair (Mr. Grant Crack): Thank you, Ms. Mangat. Mr. Tabuns.

Mr. Peter Tabuns: Chair, I just want to note that we want to have "shall" rather than "may" in the language of this bill so that there is some compulsion for the minister to, in fact, act.

This matter of the net loss of wetlands came up with numerous presenters who were before this committee last week. It's pretty clear that we don't want existing naturally generated wetlands to be wiped out and replaced with artificial wetlands. We have very little left on the

north shore of Lake Ontario, as presented by presenters last week. I think it makes sense for the government to support this.

The Chair (Mr. Grant Crack): Further discussion? Ms. Thompson.

Ms. Lisa M. Thompson: Again, we need to be careful here because we shouldn't be forcing the ministers to set targets just for the sake of setting targets. We need to be focused on sound science. We all want to be good environmental stewards, and we do understand the importance of slowing down the movement of water, but again, it has to be based on sound science and practice. We can't be imposing timelines etc. on the minister.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. McDonell.

Mr. Jim McDonell: I too believe we also need to work with science. Sometimes, wetlands can replace others. If you drive along the 401 in my area and in Leeds and Grenville, there are many areas where there are wetlands that were not there before the 401 was put through. It just highlights the fact that wetlands can be created. Sometimes that's an alternative when other wetlands are causing an issue and must be replaced. We have the ability and the science to make a difference that really, at the end, makes no net difference or is an improvement.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the recorded vote on NDP motion 25.

Ayes

Tabuns.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare NDP motion 25 defeated.

We shall move to NDP motion 26—

Mr. Peter Tabuns: Withdraw.

The Chair (Mr. Grant Crack): —which is withdrawn by Mr. Tabuns of the NDP.

We shall move to PC motion 27, which is a new subsection, 9(3.1). Ms. Thompson.

Ms. Lisa M. Thompson: I move that section 9 of the bill be amended by adding the following subsection:

“Consideration of scientific evidence

“(3.1) Neither the Minister of the Environment and Climate Change nor the Minister of Natural Resources and Forestry shall establish a target without first considering the best available scientific evidence.”

The Chair (Mr. Grant Crack): Further discussion? Ms. Mangat.

Mrs. Amrit Mangat: The government is committed to establishing targets based on the best available science. However, we will not be supporting this motion as it's

not necessary. As an example of science informing targets, recent targets of a 40% reduction in phosphorus loading in Lake Erie's western and central basins are based on sound science. So we will not support this motion.

The Chair (Mr. Grant Crack): Thank you. Mr. McDonell.

Mr. Jim McDonell: I'm not surprised that the government is not supporting this, because we've seen time and time again where the science is ignored, as recently as the neonics issue.

I think it's important that in this day and age, the government uses the best scientific evidence that's available. Why they would refuse to acknowledge that really makes me wonder, but of course, practice is showing that they aren't.

The Chair (Mr. Grant Crack): Thank you. Ms. Mangat.

Mrs. Amrit Mangat: There are multiple areas where the government has committed to considering science in decision-making, and these include:

(1) The proposed act already requires in section 32 the consideration of the purposes of the proposed act and principles of the strategy when establishing a target. The purposes of the proposed act include those related to advancing science.

(2) The Ministry of the Environment and Climate Change's statement of environmental values already includes consideration of a precautionary science-based approach in its decision-making to protect human health and the environment.

(3) Future targets are also to be consulted upon through our environmental registry posting, which will consider science and advice from scientists and other technical experts.

(4) The Great Lakes Guardians' Council will provide advice and input into future targets and will include representation from academics and leading scientists.

1530

It's also important to note that while science is critical to establishing future targets, other factors are also important, including economic considerations. We will not support the motion.

The Chair (Mr. Grant Crack): Thank you. Ms. Thompson?

Ms. Lisa M. Thompson: At the end of the day, we all believe, again, as I said, in protecting our Great Lakes. Conservation projects really should be based on sound science as opposed to having targets imposed upon us by Liberal supporters, as we've seen in the neonics instance. Thank you.

The Chair (Mr. Grant Crack): Ms. Mangat?

Mrs. Amrit Mangat: Chair, we very much support the best science available. It is this government, our provincial government, which has provided funding to the Experimental Lakes. The federal government has cut the funding and they have muzzled our scientists.

The Chair (Mr. Grant Crack): Thank you. Ms. Thompson?

Ms. Lisa M. Thompson: To that, I say, past behaviour is indicative of future behaviour, and we're very worried about that.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? There being none, I shall call the recorded vote on PC motion number 27.

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare PC motion number 27 defeated.

We shall move to PC motion number 28, which is a new subsection, 9(3.2). Mr. McDonell.

Mr. Jim McDonell: I move that section 9 of the bill be amended by adding the following subsection:

"Consultation before establishing target

"(3.2) Neither the Minister of the Environment and Climate Change nor the Minister of Natural Resources and Forestry shall establish a target without first consulting with representatives of the interests of First Nations and Métis communities that have a historic relationship with the Great Lakes-St. Lawrence River basin, representatives of the scientific community and representatives of the industrial, agricultural and tourism sectors in the Great Lakes-St. Lawrence River basin."

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Chair. The government doesn't support this motion as it is both unnecessary and exclusionary.

Further, the motion excludes critical interests, including municipalities, which are partners in Great Lakes protection. The proposed act also requires the conservation of traditional ecological knowledge, if it is offered, in the development of future targets.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. McDonell.

Mr. Jim McDonell: I just noticed—previously, we tried to include municipalities and you defeated that motion. There are various sectors that are important, and we think they should be consulted as well.

When you're establishing regulations you want to make sure you hear from everybody. We tried to put the municipalities in and didn't get that. We also want to include these groups. Thank you.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Ms. Mangat.

Mrs. Amrit Mangat: Chair, the proposed act already requires consultation on future targets.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call for the vote on PC motion number 28. Recorded vote.

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare PC motion number 28 defeated.

We shall move to NDP motion number 29, an amendment to subsection 9(4)—

Mr. Peter Tabuns: Withdrawn.

The Chair (Mr. Grant Crack): It has been withdrawn by Mr. Tabuns.

Mr. Peter Tabuns: And number 30 I withdraw as well, Chair.

The Chair (Mr. Grant Crack): Mr. Tabuns has withdrawn NDP motion 30 as well.

We shall move to NDP motion number 31, which is an amendment to subsection 9(5). Mr. Tabuns.

Mr. Peter Tabuns: I move that subsection 9(5) be amended by striking out "may" and substituting "shall".

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Any further discussion? Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Chair. The government supports this motion. The proposed act allows for the development of plans which would outline the actions needed to achieve targets by all partners. Making these plans mandatory makes sense and is consistent with the intent of the proposed act. So we will support this.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? There being none, I shall call the recorded vote on NDP motion number 31.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare NDP motion number 31 carried.

We shall move to NDP motion number 32, which is an amendment to subsection 9(6). Mr. Tabuns.

Mr. Peter Tabuns: Withdraw.

The Chair (Mr. Grant Crack): NDP motion 32 is withdrawn by Mr. Tabuns.

Mr. Peter Tabuns: And similarly, 33.

The Chair (Mr. Grant Crack): New section 9.1, which was NDP motion 33, is withdrawn.

Mr. Peter Tabuns: Right.

The Chair (Mr. Grant Crack): We shall deal with section 9, as amended. There was one amendment. Any further discussion on section 9? There being none, I shall call for the recorded vote on section 9, as amended.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare section 9, as amended, carried.

We shall move to part V, “Proposals for Initiatives,” which has section 10. There are no amendments. Is there any discussion on section 10? There being none, shall section 10 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare section 10 carried.

We shall move to section 11. There are no amendments. Is there any discussion on section 11? There being none, I shall call for the vote on section 11. Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 11 carried.

We shall move to section 12, which is PC amendment number 34: section 12, new paragraphs 6 and 7. Ms. Thompson.

Ms. Lisa M. Thompson: I move that section 12 of the bill be amended by adding the following paragraphs:

“6. An analysis of the economic, social and environmental costs and benefits associated with the initiative.

“7. A budget outlining the costs and sources of funding for the initiative.”

The Chair (Mr. Grant Crack): Any further discussion? Ms. Mangat.

Mrs. Amrit Mangat: The government doesn't support this motion. The proposed act already requires the contents of a geographically focused initiative to include a financing strategy and anticipated costs and benefits. The government is also introducing motion number 35 to amend the bill to require the description of the impacts to those affected by the implementation of the initiative which allows for another fiscal assessment of impacts. So we will not support this.

The Chair (Mr. Grant Crack): Further discussion? Ms. Thompson.

Ms. Lisa M. Thompson: You know, this province and the municipalities can't afford the practice of moving forward with blank cheques for anything and everything. We really need cost-benefit analysis done so that we can anticipate what is coming down the pipeline. Again, we stressed a concern right out of the gate when there's absolutely no funding associated with GFIs. It's a worry that we have.

Again, when a province is broke we should be doing a cost-benefit analysis on everything.

The Chair (Mr. Grant Crack): Mr. McDonell?

Mr. Jim McDonell: I agree with my colleague here. Too often we're passing costs onto municipalities. We have the second-highest property taxes in North America. As mayor I saw regulation after regulation come down—added cost and added administration—regulation that slowed down growth in our municipalities but at the same time added costs to municipalities with no funding, funding that also has been cut over the years and is less than it was in 1999. There's only taxpayer, and he's being pushed out of this province. We have a fairly high standard of living—not as high as it used to be, I think, unfortunately—but we don't want to see it go down any further.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call for the recorded vote on PC motion number 34.

Ayes

Tabuns, Thompson, McDonell.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare PC motion number 34 defeated.

There were no amendments to section 12 that passed. Any further discussion on section 12?

Shall section 12 carry? Recorded vote.

1540

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare section 12 carried.

I would like to take the opportunity to ask the committee if they would be interested in bundling or joining sections 13, 14, 15, 16, 17 and 18 as there are no amendments. Is it the will of the committee that we could do that?

Mr. Peter Tabuns: Sure.

The Chair (Mr. Grant Crack): Having said that, is there any discussion or comments with regards to any of those sections?

Mr. Peter Tabuns: No.

The Chair (Mr. Grant Crack): Then I shall ask for the recorded vote on sections 13, 14, 15, 16, 17 and 18. Shall those sections carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare sections 13, 14, 15, 16, 17 and 18 carried.

Section 19, government motion number 35, which is an amendment to subsection 19(2) and new paragraph 9.1: Ms. Mangat.

Mrs. Amrit Mangat: I move that subsection 19(2) of the bill be amended by adding the following paragraph:

“9.1 A description of impacts to persons or classes of persons who may be affected by the implementation of the initiative.”

The Chair (Mr. Grant Crack): Thank you very much. Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Chair. This motion responds to those stakeholders, including agricultural groups, who requested an assessment of impacts on stakeholders from the implementation of geographically focused initiatives. It also requires the contents of geographically focused initiatives to include a description of anticipated costs and benefits. This will provide for a robust analysis of impacts from the initiative from financing the initiative to its costs and benefits, and to its impact on stakeholders.

We support this.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion on government motion number 35? There being none, I shall call for the recorded vote on government motion 35.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, McDonell, Tabuns, Thompson.

The Chair (Mr. Grant Crack): I declare government motion number 35 carried.

Section 19 is amended with the previous motion that just passed. Is there any further discussion on the entire section 19?

Ms. Lisa M. Thompson: We have one more motion, 19.1.

The Chair (Mr. Grant Crack): Well, I need to do that section first and then we'll add.

Shall section 19, as amended, carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 19, as amended, carried.

We have PC motion number 36, which is a new section, 19.1. Ms. Thompson.

Ms. Lisa M. Thompson: I move that the bill be amended by adding the following section:

“Consent of landowner required for initiative to take effect

“19.1 Despite any provision of this or any other act, no initiative shall take effect in respect of land if the minister has not obtained the consent of the owner of the land for the initiative to take effect.”

The Chair (Mr. Grant Crack): Thank you. Further discussion? Ms. Mangat.

Mrs. Amrit Mangat: The government doesn't support this motion. The proposed act contains similar provisions to those found in the Lake Simcoe watershed protection act, which received all-party support and is widely viewed as a model watershed act. The Lake Simcoe Protection Act doesn't include the type of restriction contemplated in this motion. Neither does any other legislation, including the Planning Act and the land use plan. So we will not support this motion.

The Chair (Mr. Grant Crack): Thank you, Ms. Mangat. Any further discussion? Ms. Thompson.

Ms. Lisa M. Thompson: Through the last 12 years, municipalities have had enough local autonomy stripped away from them. I think it would be a good gesture to actually bring people and be inclusive at the table as opposed to handcuffing them.

The least you could do is recognize the importance of having dialogue and interaction to achieve, ultimately, the agreement from the landowner.

The Chair (Mr. Grant Crack): Ms. Mangat.

Mrs. Amrit Mangat: Chair, the proposed act also ensures that municipalities are invited to make written submissions or pass a resolution on the development of draft geographically focused initiatives, further reinforcing local influence on policies with any future initiative.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the recorded vote on PC motion 36.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion 36 defeated.

We shall move to section 20, which is PC motion 37, an amendment to subsection 20(6). Ms. Thompson.

Ms. Lisa M. Thompson: I move that subsection 20(6) of the bill be struck out.

The Chair (Mr. Grant Crack): Any further discussion? Ms. Mangat.

Mrs. Amrit Mangat: The government doesn't support this motion. This motion essentially removes the legal effect of geographically focused initiatives. The proposed act contains similar provisions to those formed in the Lake Simcoe Protection Act, which received all-party support and is widely viewed as a model watershed act.

The Chair (Mr. Grant Crack): Further discussion? Ms. Thompson.

Ms. Lisa M. Thompson: Let's be real. The majority of conservation practices that will be happening will be on agricultural land, and the rights of landowners should be respected. We do not need another repeat of the Green Energy Act.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the recorded vote on PC motion 37.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion 37 defeated.

There are no amendments to section 20. Any further discussion on section 20? There being none, shall section 20 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare section 20 carried.

Section 21: There are no amendments. Any discussion on section 21? There being none, shall section 21 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare section 21 carried.

Section 22: Any discussion? There being none—recorded vote—shall section 22 carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare section 22 carried.

We shall move to section 23, with PC motion 38, which is an amendment to section 23. Ms. Thompson.

Ms. Lisa M. Thompson: No.

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: I move that section 23 of the bill be struck out and the following substituted:

“Applications under the Planning Act, Condominium Act, 1998

“23. Despite any other provision of this act, if a person has made an application under the Planning Act or the Condominium Act, 1998 on or before the day an initiative comes into effect, the person shall not be required to amend the application in order to conform with any policies set out in the initiative.”

The Chair (Mr. Grant Crack): Further discussion? Ms. Mangat.

Mrs. Amrit Mangat: The government doesn't support this motion. This motion is unnecessary as the proposed act already includes a regulation-making authority to deal with transition matters such as applications made before an initiative comes into effect.

The government intends to use similar provisions for future initiatives, recognizing the need to take a fair and balanced approach which is supported by extensive consultation.

The Chair (Mr. Grant Crack): Any further discussion? Okay, there being none, I shall call for the recorded vote on PC motion 38.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion 38 defeated.

There are no amendments, therefore, to section 23. Any further discussion on section 23 in its entirety?

1550

Ms. Ann Hoggarth: Could we put those together?

The Chair (Mr. Grant Crack): If the committee would like to put sections 23, 24 and 25 together and then we will deal with 25.1 after.

Mr. Mike Colle: Let's just vote on 23.

The Chair (Mr. Grant Crack): Yes, okay. Let's deal with section 23 first and then we can do 24 and 25. We're not done 23; right? You had asked to put them all together. We're in the process of voting on section 23, unless I—

Interjections.

The Chair (Mr. Grant Crack): No, no.

Interjection: We voted on it.

Interjections.

Interjection: Yes, we did. We voted on it. It was voted down.

The Chair (Mr. Grant Crack): Okay. Just for clarification purposes, we have not yet voted on section 23. There was an attempt to amend section 23. There were no amendments. I had asked if there was any further discussion on this section in its entirety. There is none, so I shall call for the recorded vote on section 23, which is not amended.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare section 23 carried.

There has been a request to have sections 24 and 25—

Mr. Mike Colle: Bundled.

The Chair (Mr. Grant Crack): —bundled together. However, that does not affect the upcoming motion for the PCs. So is it the wish of the committee to bundle the two?

Mr. Mike Colle: Bundle them.

The Chair (Mr. Grant Crack): Okay. Is there any discussion on sections 24 and 25? There being none, shall sections 24 and 25 carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare sections 24 and 25 carried.

We have a new proposed section, which is 25.1, which is PC motion number 39. Mr. McDonell.

Mr. Jim McDonell: I move that the bill be amended by adding the following section:

“Prohibition, certain classified CLI soils

“25.1 No initiative under this act shall have the effect of requiring a non-agricultural use of land that is classified as class 1, 2, 3 or 4 land under the Canada Land Inventory, National Soil Database, published by Agriculture and Agri-Food Canada, 1998.”

The Chair (Mr. Grant Crack): Thank you very much, Mr. McDonell. Ms. Mangat, further discussion?

Mrs. Amrit Mangat: The government doesn't support this motion because this provision is unnecessary as the province already has in place policies to protect agricultural land through the provincial policy statement.

The Chair (Mr. Grant Crack): Thank you. Ms. Thompson.

Ms. Lisa M. Thompson: I have to share with you an example I just heard this morning. In my colleague's riding of Haliburton-Brock-Great Lakes, we have an example of where solar farms are being allowed to be

built on class 1 agricultural land. The fact of the matter is, it's proof that what you have in place is not working. It's not protecting our farmland in Ontario. The agri-food sector in this province is arguably number two; some would even suggest number one. Agriculture is intrinsically connected with our economy and we should be protecting this as opposed to ripping away more precious class 1, 2, 3 and 4 farmland.

The Chair (Mr. Grant Crack): Thank you very much. Mr. McDonell.

Mr. Jim McDonell: I think the stats show we're losing hundreds of acres of farmland every week in this province, and we can't afford to—this becomes a major food supply. As climate changes, it becomes more and more important. There is a limit to agricultural land and just because it's not being used today for agricultural purposes doesn't mean it shouldn't be protected because we need the food supply, we need the benefits that this acreage provides to climate change as far as greenhouse gases, so it must be protected. We're supporting this amendment.

The Chair (Mr. Grant Crack): Thank you very much. Ms. Mangat.

Mrs. Amrit Mangat: The motion would also unduly constrain what type of policies could be included in an initiative. It is essential that the initiative be a flexible tool so that it can respond to emerging threats and be able to achieve its goals.

The Chair (Mr. Grant Crack): Thank you very much. Ms. Thompson.

Ms. Lisa M. Thompson: Again, I stand by that we need to protect our agricultural farmland. But in the spirit of going clause-by-clause on Bill 66 here, I inadvertently added “Great” to the riding of Laurie Scott, and I want to correct my record: It's Haliburton-Kawartha Lakes-Brock.

The Chair (Mr. Grant Crack): Thank you. Any further discussion on PC motion 39? There being none, I shall call for the recorded vote.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion 39 defeated.

We shall move to section 26. PC motion 40 proposes a new subsection, 26(1.1). Ms. Thompson.

Ms. Lisa M. Thompson: I move that section 26 of the bill be amended by adding the following subsection:

“Analysis

“(1.1) Before making a regulation under clause (1)(a) or (b), the Lieutenant Governor in Council shall analyze and consider the economic and social effects of the regulation on the industrial, agricultural and tourism

sectors and shall post a summary of its analysis and considerations on the environmental registry established under section 5 of the Environmental Bill of Rights, 1993 for a period of at least 30 days.”

The Chair (Mr. Grant Crack): Any further discussion? Ms. Mangat?

Mrs. Amrit Mangat: The government doesn’t support this motion, as it is unnecessary and exclusionary. The motion as drafted doesn’t include municipal partners, who are critical partners in Great Lakes protection, and the impact to them is also very much critical, so we won’t support the motion.

The Chair (Mr. Grant Crack): Further discussion?

Ms. Lisa M. Thompson: What we’re trying to ensure here is that Bill 66 doesn’t become unwieldy and appealing Liberal donors and friends. We want to make sure that regulations under this bill actually serve the purpose of protecting our Great Lakes.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the recorded vote on PC motion number 40.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare PC motion 40 defeated.

We shall move to PC motion 41, which adds new subsections 26(3.1) and (3.2). Mr. McDonell.

Mr. Jim McDonell: I move that section 26 of the bill be amended by adding the following subsections:

“Authority to enter property

“(3.1) In the circumstances described in subsection (3.2), an officer appointed under clause (1)(c) may, for the purpose of enforcing a regulation made under subsection (1), enter property without the consent of the owner or occupier and without a warrant, if,

“(a) the officer has reasonable grounds to believe that an activity is being engaged in on the property that is regulated or prohibited by a regulation made under clause (1)(a); or

“(b) the officer has reasonable grounds to believe that a person is required by a regulation made under clause (1)(b) to do a thing on the property.

“Same

“(3.2) For the purposes of subsection (3.1), the circumstances must be such that the anticipated delay resulting from locating the owner or occupier of the property before entering the property would result in serious or irreversible damage to the ecological health of the Great Lakes-St. Lawrence River basin.”

The Chair (Mr. Grant Crack): Further discussion? Ms. Mangat?

Mrs. Amrit Mangat: The government doesn’t support this motion, as it is unnecessary and exclusionary. The bill includes a number of checks and balances which ensure that inspection provisions allowing access to property are only used where necessary.

(1) Such powers would only be used when a shoreline regulation is proposed, which requires extensive consultation.

(2) The bill requires reasonable notice before entry. This is unlike other statutes such as the Environmental Protection Act or even the Nutrient Management Act, where no notice is required before entering the property.

(3) Officers must be properly trained before they can enter property. Other legislation, like the Nutrient Management Act and the Environmental Protection Act, do not require this bylaw. A warrant is required for entry into a private dwelling.

These provisions are identical to those in the Lake Simcoe Protection Act, which received all-party support. Other legislation, including the Nutrient Management Act, is even more permissive, so we will not support this.

The Chair (Mr. Grant Crack): Any further discussion on PC motion 41? Ms. Thompson.

Ms. Lisa M. Thompson: We just can’t stress enough that property owners and their rights need to be respected by all legislation.

1600

The Chair (Mr. Grant Crack): Thank you very much. I will call for the recorded vote on PC motion number 41.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion number 41 defeated.

According to the order from the House, I’d like to inform members of the committee that it is now 4 o’clock, at which time I would like to ask members of the committee if they would like to take a 20-minute recess and/or continue the business of the day.

Interjections.

The Chair (Mr. Grant Crack): I’d just advise members that there will be no further discussion on the motions. I will read them out and we will vote accordingly. It’s the order of the House.

Would you like me to reread that for you all?

Interjection: Yes.

The Chair (Mr. Grant Crack): “That at 4 p.m. on Monday, September 28, 2015, those amendments which have not yet been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings”—which I just did—“and shall, without further debate or amendment, put every question neces-

sary to dispose of all remaining sections of the bill and any amendments thereto. At this time, the Chair shall allow one 20-minute waiting period, pursuant to standing order 129(a).”

Is it the wish of the committee to continue?

Interjections: Yes.

The Chair (Mr. Grant Crack): I hear lots of yeses.

We shall move to the next PC motion, number 42, which amends paragraph 26(4)4. Recorded vote. Those in favour?

Mr. Mike Colle: Of what motion?

The Chair (Mr. Grant Crack): Okay. PC motion number 42, which is an amendment to subsection 26(4), paragraph 4. Recorded vote.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion 42 defeated.

As such, there are no amendments to section 26. Shall section 26 carry?

Ayes

Colle, Hoggarth, Kiwala, Mangat.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare section 26 carried.

PC motion 43, which is an amendment to subsection 27(1). Recorded vote.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion 43 defeated.

As a result, there are no amendments to section 27. Shall section 27 carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare section 27 carried. I'll just let the Clerk catch up a little bit.

PC motion number 44 is an amendment proposing a new section, 27.1. Recorded vote.

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare PC motion 44 defeated.

We shall move to section 28. Shall section 28 carry?

Ayes

Colle, Hoggarth, Kiwala, Mangat.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare section 28 carried.

Section 29: I shall call the recorded vote. Shall section 29 carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 29 carried.

Section 30: recorded vote. Shall section 30 carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 30 carried.

Do you have a question for clarification?

Ms. Ann Hoggarth: Did we do the opposing?

The Chair (Mr. Grant Crack): I don't think I've missed anything at this point.

Ms. Ann Hoggarth: Okay. I just wonder if, as we go along, we could bundle where there's ability to do that, please, without asking.

The Chair (Mr. Grant Crack): They're quite limited now. I appreciate it, but it's straight up, so it should go fairly quickly.

I'd just like to remind members of the committee that there are times, when I ask for "opposed," that there are sometimes members who don't put up their hand, which is more than acceptable. That's why there are no names being called out.

Section 31: We have a government motion, number 45, which is an amendment—a new subsection, 31(2). Those in favour of government motion 45?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I declare government motion 45 carried, which results in section 31 being amended.

Recorded vote: Shall section 31, as amended, carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

Nays

McDonell, Tabuns, Thompson.

The Chair (Mr. Grant Crack): I declare section 31, as amended, carried.

Section 32: There are no amendments. Shall section 32 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 32 carried.

We have NDP motion number 46, which is an amendment to section 33, adding new paragraphs 4, 5 and 6. Recorded vote.

Ayes

McDonell, Tabuns, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare NDP motion 46 defeated.

There are no amendments to section 33. Recorded vote: Shall section 33 carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 33 carried.

We have government motion 47, which is an amendment to subsection 34(2). Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, McDonell, Tabuns, Thompson.

The Chair (Mr. Grant Crack): I declare government motion 47 carried.

There is one amendment to section 34 that has carried. Shall section 34, as amended, carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 34, as amended, carried.

For clarification, Mr. Colle, the first was government motion 47, which carried, which resulted in section 34 being amended, which just carried.

Mr. Mike Colle: Okay, thank you.

The Chair (Mr. Grant Crack): You're welcome.

Section 35: There are no amendments. Shall section 35 carry? Recorded vote.

1610

Ayes

Colle, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 35 carried.

PC motion number 48 proposes a new section, 35.1. Recorded vote.

Ayes

McDonell, Thompson.

Nays

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion number 48 defeated.

Section 36: There are no amendments proposed. Shall section 36 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare section 36 carried.

Section 37: There are no amendments. Recorded vote: Shall section 37 carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 37 carried.

NDP motion number 49, which is an amendment to clause 38(1)(l). Recorded vote. Shall NDP motion number 49 carry?

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, McDonell, Tabuns.

The Chair (Mr. Grant Crack): I declare NDP motion number 49 carried.

Government motion number 50, which is an amendment to clause 38(1)(l). Shall government motion number 50 carry? Recorded vote.

Mr. Peter Tabuns: They're the same motion.

Mr. Mike Colle: Motion to withdraw.

Interjection.

The Chair (Mr. Grant Crack): Okay. So if somebody would withdraw, that would be nice.

Mr. Mike Colle: Move to withdraw.

The Chair (Mr. Grant Crack): Okay. Government motion 50 is withdrawn. Thank you very much. I'm just trying to do my job, but thank you for pointing that out, Mr. Tabuns. That is withdrawn.

So we shall move to PC motion number 51.

Mr. Peter Tabuns: Again, they're the same.

Ms. Lisa M. Thompson: Chair, we withdraw.

The Chair (Mr. Grant Crack): PC motion number 51 has been withdrawn. Thank you very much.

We have one amendment—NDP motion 49—to section 38. Shall section 38, as amended, carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare section 38, as amended, carried.

Section 39: There are no amendments. Shall section 39 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 39 carried.

Part VIII, "Commencement and Short Title," section 40: There are no amendments. Shall section 40 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 40 carried.

Section 41, short title: There are no amendments. Shall section 41 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 41 carried.

I just want to advise members of the committee that schedule 1 does have section 1. I just want to clarify: We will deal with section 1 of schedules 1, 2 and 3 as they come forward. We're moving to schedule 1, but there is a section in there. Shall section 1 of schedule 1 carry? It's a recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 1 carried.

Shall schedule 1 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): Schedule 1 is carried. We shall move to schedule 2, of which there is a section 1. Shall section 1 of schedule 2 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare section 1 of schedule 2 carried.

Shall schedule 2 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare schedule 2 carried.

We shall move to schedule 3. There is a section in there, section 1. Shall section 1 of schedule 3 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): Section 1 of schedule 3 is carried.

Shall schedule 3 carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat.

The Chair (Mr. Grant Crack): I declare schedule 3 carried.

Shall the preamble carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): The preamble is carried. Shall the title of the bill carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare the title of the bill carried.

Shall Bill 66, as amended, carry? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

The Chair (Mr. Grant Crack): I declare Bill 66, as amended, carried.

Here's the big question: Shall I report the bill, as amended, to the House? Recorded vote.

Ayes

Colle, Dickson, Hoggarth, Kiwala, Mangat, Tabuns.

Nays

McDonell, Thompson.

The Chair (Mr. Grant Crack): I shall report the bill to the House, as amended.

I'd like to thank you for giving me the privilege of putting this to the House. As your Chair, it's been a privilege for me to chair such a wonderful group—

Mr. Mike Colle: Move adjournment.

The Chair (Mr. Grant Crack): —including Mr. Colle.

Mr. Mike Colle: How about the staff?

The Chair (Mr. Grant Crack): I'd like to thank the Clerk and all the support staff and everyone here for all their hard work on the bill.

Mr. Mike Colle: How about the ministry staff, the opposition staff?

The Chair (Mr. Grant Crack): I'd like to thank the opposition staff and the ministry staff for all the good work that you all do. Thank you, Mr. Colle.

Having said that, thanks again, everyone; good work. This meeting is adjourned.

The committee adjourned at 1618.

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First Session, 41st Parliament

Assemblée législative de l'Ontario

Première session, 41^e législature

Official Report of Debates (Hansard)

Monday 5 October 2015

Journal des débats (Hansard)

Lundi 5 octobre 2015

Standing Committee on General Government

Ending Coal
for Cleaner Air Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015
sur l'abandon du charbon
pour un air plus propre



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 5 October 2015

Lundi 5 octobre 2015

*The committee met at 1400 in committee room 2.*ENDING COAL
FOR CLEANER AIR ACT, 2015
LOI DE 2015
SUR L'ABANDON DU CHARBON
POUR UN AIR PLUS PROPRE

Consideration of the following bill:

Bill 9, An Act to amend the Environmental Protection Act to require the cessation of coal use to generate electricity at generation facilities / Projet de loi 9, Loi modifiant la Loi sur la protection de l'environnement pour exiger la cessation de l'utilisation du charbon pour produire de l'électricité dans les installations de production.

The Chair (Mr. Grant Crack): It being 2 o'clock, I shall call the Standing Committee on General Government to order. I'd like to welcome all members of the committee and all members of the public and delegations here this afternoon.

I would like to inform the committee that we do have an order from the House which allows for two days of public hearings. Today will be the first day, followed by Wednesday. The deadline for written submissions would be Wednesday, October 7, at 6 p.m. Any amendments to the bill should be filed with the Clerk by 12, noon, the following day, which would be Thursday, October 8.

Today we're here to deal with the public hearing aspect of Bill 9, An Act to amend the Environmental Protection Act to require the cessation of coal use to generate electricity at generation facilities.

I just want to inform members of the committee that we did have a request by a filming crew, which is called the Climate Reality Project. They have requested that they film the proceedings here. This is through the Clean Air Alliance. I believe Mr. Jack Gibbons is the star of the production and he would be our first delegation. So I'm just asking members of the committee if there is consent to filming here this afternoon and if we have any questions or comments. I believe it would be just the first presentation that would be filmed.

Yes, Mr. Hatfield?

Mr. Percy Hatfield: Thank you, Chair. Good afternoon. I think the correct terminology is "tape." I don't think they use film anymore.

The Chair (Mr. Grant Crack): Is that right? I stand corrected. We shall use tape in the future. So there is no opposition from the members of the committee? We do have consent, yes? Okay, very good. We shall proceed.

ONTARIO CLEAN AIR ALLIANCE

The Chair (Mr. Grant Crack): At this time, I would like to call our first presenter this afternoon, who is comfortably in the chair, ready to roll: Mr. Jack Gibbons, from the Ontario Clean Air Alliance. Welcome, sir. You have five minutes for your presentation, followed by nine minutes of questioning from the three parties. That will be the process we'll use for all delegations. Welcome. The floor is yours, sir.

Mr. Jack Gibbons: Thank you very much, Mr. Crack, and members of the committee. The Clean Air Alliance was established in 1997 to advocate for a complete phase-out of our five dirty coal-fired power plants. We worked on that campaign every day for the next 17 years until the final one was phased out on April 8, 2014.

Needless to say, we are very strong supporters of Bill 9, which, if approved, would put the final nail in the coffin for dirty coal-fired electricity generation in Ontario.

Today, I think it's important to remember that the recent coal phase-out that we achieved last year was actually Ontario's second coal phase-out. We phased out coal for the first time at the beginning of the last century, thanks to Sir Adam Beck and Ontario Hydro. Sir Adam Beck and Ontario Hydro developed our water power resources at the beginning of the last century, and as a result, they created a virtually 100% renewable electricity grid that lasted for almost 50 years. The move to a renewable grid was combined with steadily declining electricity rates for 50 years. For example, residential rates fell from five cents a kilowatt hour in 1914 to one cent a kilowatt hour in 1944, an 80% reduction.

Unfortunately, in the 1960s, the old Ontario Hydro turned its back on water power. It turned its back on low-cost water power and started building dirty coal-fired power plants and high-cost nuclear power plants. As a result, our rates started to rise, and they've been rising ever since.

The Lakeview coal-fired power plant in Mississauga came into service in 1962. It was the largest air polluter in the GTA. The Nanticoke coal-fired power plant came

into service on Lake Erie in 1973. It was the largest coal plant in North America and Canada's number one air polluter. In addition, we built three other dirty coal-fired power plants in Sarnia, Thunder Bay and Atikokan, and we built three large nuclear generating stations. Every single one of them went massively over budget, and we're still paying for those cost overruns on our hydro bill. It's called the nuclear debt retirement charge.

Then, in 1998, seven of our nuclear reactors were unexpectedly shut down for safety reasons. All of these reactors were shut down for at least five years. Two of them are still shut down. As a result, we had to crank up our dirty coal plants to keep the lights on; we had to crank up the coal plants by 120%. This led to a dramatic increase in air pollution and, as a result, the president of the Ontario Medical Association declared that air pollution had become a public health crisis in Ontario.

The good news is that the political system responded quickly and decisively to deal with this public health crisis. In 1999, Howard Hampton and the NDP, during the election, called for an 83% coal phase-out. Dalton McGuinty called for a 100% coal phase-out. In 2000, Mayor Hazel McCallion called for the phase-out of coal-burning at Lakeview. In 2001, Elizabeth Witmer, the then Minister of the Environment, issued a legally binding regulation requiring the phase-out of coal-burning at Lakeview. In 2002, the Ernie Eves government committed the province of Ontario to a complete coal phase-out by 2015. In 2003, Dalton McGuinty was elected Premier of Ontario and Dalton McGuinty, God bless him, did the heavy lifting that made the coal phase-out in 2014 possible.

Now that we've phased out coal, Ontario's electricity system is at a crossroads because most of our aging nuclear reactors will come to the end of their lives during the next 10 years. As a result, we have a unique opportunity to rebuild our electric power system from the ground up, and we have two choices. We can rebuild 10 aging nuclear reactors and remain dependent on high-cost and unreliable nuclear power until 2060 and beyond, or we can lower our bills and move once again towards a 100% renewable electricity grid by importing water power from Quebec, by investing in energy efficiency and by investing in cost-effective, made-in-Ontario green energy.

In conclusion, ladies and gentlemen, we need a new generation of political leaders who will have the guts to say no to the nuclear special interest lobby and seize this opportunity to lower our electricity bills and create for our great province, once again, a 100% renewable electricity grid. Thank you for your attention.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Gibbons. We shall start the three-minute questioning from each party with the official opposition: Ms. Thompson.

Ms. Lisa M. Thompson: Thank you for being here. It's good to see you again, Mr. Gibbons.

Mr. Jack Gibbons: It's good to see you.

Ms. Lisa M. Thompson: I appreciate the fact that you recognized it was the PC Party of Ontario that closed the

first coal plant. Elizabeth Witmer is from Huron county, so I certainly appreciate all her efforts and true values and principles that led her to moving in that direction, along with our party.

During your presentation, I appreciated all of your comments. There was one thing that stuck with me, though. You mentioned that nuclear power was unreliable, and I was wondering if you could clarify that for me.

Mr. Jack Gibbons: Okay. Well, I can give you two examples. As I mentioned, in 1998, seven of them were unexpectedly shut down. All of them were shut down for at least five years, and that led to the huge increase in coal generation.

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Also, if you will remember back to the 2003 black-out—because of our heavy dependence on unreliable nuclear power, it took over eight days for Ontario's power grid to be fully returned to normal operations—eight days. On the other hand, in New York state they returned their power grid to full normal operation in less than two days. That's because New York wasn't dependent on these unreliable Candu nuclear reactors.

Ms. Lisa M. Thompson: Okay. I appreciate your historical perspective, but I feel it's important to recognize that when you take a look at baseload energy production in Ontario today, would you not agree that at this time nuclear energy is that baseload reliable source that we have in this province?

Mr. Jack Gibbons: I certainly agree that it's a baseload source, but most of those reactors are coming to the end of their lives and we need to find new solutions that will lower our electricity rates, and we think that water power imports from Quebec are the best new source of baseload supply.

Ms. Lisa M. Thompson: Okay. Interesting. Thank you for that. One last question: From our perspective in doing our research, it looks like Bill 9 doesn't address how to reduce the use of coal in private industry. What are your comments on that?

Mr. Jack Gibbons: That's true. Our campaign was just focused on the five dirty coal plants that were electricity-generating plants. Our campaign was not, for example, to close down the steel industry, which uses coal as an input.

Ms. Lisa M. Thompson: Okay. Thank you.

Mr. Jim McDonell: Time?

The Chair (Mr. Grant Crack): Twenty-four seconds.

Mr. Jim McDonell: My only comment is that it's a bill that—I wonder why we're addressing it now when we closed the last plant last year in 2014. There are a lot of priorities in this House as we sit, with a lot of people who are typically unemployed or looking for work. It's a bill that, as this point, is redundant.

The Chair (Mr. Grant Crack): Okay. Thank you very much. We shall move to the third party. Mr. Hatfield.

Mr. Percy Hatfield: Good afternoon. Hi, Jack. Thanks for being here. It's nice to see you again.

Mr. Jack Gibbons: Thank you.

Mr. Percy Hatfield: My understanding, when we started off talking about Adam Beck, is that back in those days there were not one but two referendums on what Ontario should do: Do you want hydro power or do you not want it?

Mr. Jack Gibbons: Right.

Mr. Percy Hatfield: There was a direct vote of the public. Is that the case?

Mr. Jack Gibbons: I believe you're correct about the referendums. I'm not exactly sure about all the details. I do know that Sir Adam Beck was the hero who brought us public power and low-cost water power and the 100% renewable grid.

Mr. Percy Hatfield: I only say that, of course, because some parties have been calling for a referendum on selling off hydro. It's always good to remind ourselves of our past and our history and how we got here and so on.

The Liberal government is always big on open and transparent—buzzwords. How open and transparent are the discussions or negotiations on the improvements coming for Darlington?

Mr. Jack Gibbons: I don't think they're very open or transparent. I believe OPG is preparing what's supposed to be their final cost estimate for the Darlington rebuild, which they'll be presenting to the government later in this calendar year, if they haven't already done so. I haven't seen it, and I certainly don't find OPG to be a transparent company.

Mr. Percy Hatfield: Have you had the opportunity to have any input into that discussion?

Mr. Jack Gibbons: We certainly make our views known to whoever will listen to us. We think the Darlington rebuild project is a very high-cost, high-risk project. Ed Clark had said exactly the same thing. So I don't know why the government and OPG want the project to be 100% financed by Ontario taxpayers, the government to borrow the money for them and put taxpayers and consumers at risk. According to OPG, the project will cost \$12.9 billion. Every single nuclear project in Ontario's history has gone massively over budget—on average, by two and a half times. If that happens with Darlington, we'll be talking about \$30 billion of extra government debt. Why we would want incur up to \$30 billion of extra government debt when we could import low-cost clean water power from our next-door neighbour is beyond me.

Mr. Percy Hatfield: What does the energy minister say to you when you suggest the Quebec option?

Mr. Jack Gibbons: He appears to only be interested in looking at it as a temporary stop-gap measure while the reactors are being rebuilt to keep our lights on. We think a much better option is: Don't use the water power from Quebec just as a stop-gap measure but as a permanent measure to avoid the need for the Darlington rebuild.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Grant Crack): We shall move to the government. Mr. Colle.

Mr. Mike Colle: Thank you, Jack. I won't ask you about Lake Simcoe and how that's going.

Mr. Jack Gibbons: It's a continuing fight—hoping for the support of the government of Ontario on that one too.

Mr. Mike Colle: I just want to take time to congratulate leaders like yourself, the Ontario Clean Air Alliance, and those in government who did what a lot of people said was impossible. Remember, they would say, "You cannot close all the power plants. It will be the end of power in Ontario. The lights will go out. It's impossible." With the advocacy of people like you it was done and here we are, without any of these coal plants. I think people have to remember how difficult it was to get through those years when everybody said you couldn't do it. It was done.

I just wanted to ask you about the Quebec option. Very little has been put forward on the public agenda about the hydroelectric option with Quebec as an alternative to the rebuild of Darlington. Is it going to take a huge investment in the transmission lines, a new transmission corridor going from James Bay into the GTA—

Mr. Jack Gibbons: Oh, no, absolutely not.

Mr. Mike Colle: So what happens there?

Mr. Jack Gibbons: We already have 2,788 megawatts of interconnection with Quebec, but there would need to be some upgrades to those lines to import enough power to replace Darlington. We need some upgrades to the Hydro One system. It doesn't involve building new transmission lines but just upgrading the existing ones.

According to the IESO, the cost of those upgrades would be \$2 billion. We think they've overstated the cost significantly, but let's assume they're right. Let's assume it's \$2 billion for the transmission upgrades to the Hydro One system. If we import water power from Quebec and cancel the Darlington rebuild, our electricity generation costs over 20 years will decline by at least \$14 billion. We'll have an electricity generation cost savings of at least \$14 billion. Even if we have to pay \$2 billion for transmission lines, we're still ahead net by \$12 billion. It's a very, very good deal economically.

Mr. Mike Colle: And what about the capacity of the Quebec hydroelectric power? Is there enough? I know Quebec is selling a lot of their hydroelectric power south of the border.

Mr. Jack Gibbons: Right.

Mr. Mike Colle: Will there be enough power to supply Ontario's needs going forward?

Mr. Jack Gibbons: Yes. Quebec has a large and growing surplus and they are still building the Romaine power project, which will come into full service by 2020, which will increase their surplus even more. Most of their surplus is sold to the United States, over 90% pursuant to short-term contracts that could be diverted to Ontario, and most of their exports are at an average of three cents a kilowatt hour, which is a very low price. There is this tremendous opportunity to buy power from Quebec to avoid the need for the Darlington rebuild.

Mr. Mike Colle: Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Gibbons, for coming before committee and sharing your insight. We wish you all the best.

Mr. Jack Gibbons: Thank you.

The Chair (Mr. Grant Crack): Yes, Ms. Thompson?

Ms. Lisa M. Thompson: Before Mr. Gibbons leaves, I couldn't help but feel the camera on my notes that I've been making. I respectfully asked, when we agreed to taping in this committee, that it would be us and not my personal notes. I request that that be respected. My personal notes are my personal notes and in no way will they ever appear on camera.

Mr. Mike Colle: You can have my personal notes on camera, if you want.

The Chair (Mr. Grant Crack): Order, order. That was noticed during the presentation, so out of respect to the committee members, we would ask that the production—

Interruption.

The Chair (Mr. Grant Crack): We appreciate that the word has been guaranteed. Thank you very much again.

Mr. Jack Gibbons: It's a very reasonable request. It's from Al Gore's Climate Reality Project, so they're a very respectable organization.

The Chair (Mr. Grant Crack): Very good. Thank you very much again. We appreciate it.

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REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair (Mr. Grant Crack): Next, from the Registered Nurses' Association of Ontario, we have the director of nursing and health policy, Mr. Tim Lenartowych, and the senior economist—is the senior economist, Kim Jarvi, with us today?

Mr. Tim Lenartowych: He's not. It's just me.

The Chair (Mr. Grant Crack): Welcome. You have five minutes.

Mr. Tim Lenartowych: Thank you, Mr. Chair. RNAO, of course, is the professional association representing registered nurses, nurse practitioners and nursing students within Ontario. We have a long history of demonstrating the connections between the environment and health, and advocating for healthy public policy, including progressive environmental policy. We thank the standing committee for the opportunity to be here today to provide our recommendations and comments on Bill 9.

For many years, RNAO and a number of other groups have advocated to end the burning of coal to generate power within Ontario, so RNAO welcomes this bill, which really prevents backsliding on Ontario's huge success in stopping the use of coal for generating electricity.

I'd refer you to our written submission that we've provided for more details that build upon my remarks today.

I'm going to speak in terms of a review of the health impact of burning coal. The health effects arise from exposure to pollutants. Based on the impacts of coal plant releases of particulate matter and ozone alone, a study from the Ministry of Energy attributed 668 premature deaths due to Ontario's coal plants.

Coal emissions attack the body in various ways. In terms of the respiratory system, they can affect lung development in children. They can trigger asthma attacks as well as contribute to COPD, chronic obstructive pulmonary disease. They are linked with lung cancer. In the United States, it was estimated in 2004 that there were 24,000 deaths per year related to the respiratory effects of coal. As well, there are cardiovascular impacts that are related to the same mechanisms as how coal impacts the respiratory system, as well as neurological impacts and evidence of a positive correlation with cerebrovascular disease related to particulate matter that impacts air contaminants.

Coal plants also emit a large degree of greenhouse gases, which contributes, of course, to climate change. This climate change in turn affects health through the spread of vector-borne diseases such as the West Nile virus, particulate matter from wildfires, dust from droughts, as well as extreme weather events.

In 2003, Ontario was heavily reliant on coal, with 25% of its electrical power coming from that source. By 2014, it had closed its last coal-fired plant, making Ontario the first North American jurisdiction to end its reliance on coal for power. Over the period of the progressive coal closures, Ontario's air quality progressively improved.

Bill 9 mandates the closure of the remaining coal-fired generating plants, to the benefit of people's health throughout the province. The bill would also bar any further generation of electricity from coal. This is a welcome precautionary measure which nurses strongly endorse. It is a powerful tool to protect air quality, to prevent toxic emissions and to help Ontario in reducing its greenhouse gas emissions.

However, the province must do more than rest on its laurels when it comes to air quality and climate change. It has achieved substantial progress, but there's much more to do. Therefore, we call for:

- the passing of Bill 9 without amendments that can weaken its intent to bar future coal-fired power plants;

- designing and implementing a comprehensive program that will meet or exceed Ontario's emission reduction targets of 15% below 1990 levels by 2020 and 80% below by 2050;

- designing and implementing a carbon pricing mechanism that is as comprehensive as possible, including transportation fuels, and that minimizes exemptions;

- lastly, using all available tools to move the bar on toxics in Ontario.

In conclusion, again, we want to thank the standing committee for this opportunity to provide recommendations on Bill 9 and look forward to seeing our recommendations incorporated.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Lenartowych. We shall start with the third party: Mr. Hatfield.

Mr. Percy Hatfield: Good afternoon, Tim. Thanks for being here. You talk about a 2000 study on coal plant emissions by OPG, released by the National Pollutant Release Inventory.

Now that the coal plants have been shut down, in your opinion, how long should it take before we can do a comparative study—we don't have the emissions in the air now—and just study the same effects and what the results would be?

Mr. Tim Lenartowych: I think that, in fact, we've seen significant improvements in air quality over the last number of years. Now certainly would be an opportune time to revisit that. I think that we can start work right now to research and look at the impact.

We do, of course, know that many of the impacts related to coal, in terms of from a health perspective, do take time in order to be able to measure; particularly, for example, the carcinogenic components contributing to lung cancer can take a number of years. I think it could take a number of years to actually see the true impact, but these things, again, take time, so there's no reason, really, why we shouldn't be able to start looking at that right now.

Mr. Percy Hatfield: I live down around the border, and we always hear about clean coal and dirty coal. The emissions from the coal plants in America blow up, with prevailing winds, to my part of the province. Do you work with other networks on the American side, compare notes and lobby people down there to start closing their coal plants as well?

Mr. Tim Lenartowych: We haven't. A lot of our focus has been within Ontario and Canada. Certainly we look at reports and evidence and research from those jurisdictions, but we haven't broadened our reach yet. I think it's a very valid point from a health impact, of course, and particularly for border areas, but then also for areas that are further away from the border. The air moves, particulates move, and so certainly there can be an impact. But what we've seen specifically within Ontario have been great improvements. There's still some work to go, but it seems to be on the right track.

Mr. Percy Hatfield: And is your organization strictly focused on air pollution or might you be looking, for example, to get ahead of the curve on, say, fracking for natural gas and the effect on the environment that that might pose in the future in our area?

Mr. Tim Lenartowych: Absolutely. We try to take as broad a look at health as possible, knowing that people need to have clean drinking water, clean air to breathe—a sustainable, clean environment. So we try to broaden our reach as much as possible. This particular issue, looking at coal, I think has been something that has been very important to nurses because there is just such a wealth of evidence that's out there that speaks to how damaging this is to human health. Nurses see it in practice all the time looking at chronic obstructive pulmonary disease. It's taking a significant toll on the health system.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Hatfield. Right on time.

We'll move to the government. Ms. Kiwala.

Ms. Sophie Kiwala: Thank you so much for being here today. It's an absolute pleasure that you're here. As you probably know, I'm a new MPP, and I've had the opportunity to meet with the RNAO both here on their advocacy days last year as well as in my riding of Kingston and the Islands. One thing that I've been very impressed with with the RNAO is your advocacy that you're engaged in. So I wanted to acknowledge the association for that. It's something that I've been particularly impressed by.

I'm very impressed by it on this subject partially for selfish reasons, because I have a brother who has serious COPD and I understand very well what the implications of profound lung problems are. As you know, people with serious asthma have to take steroids. Taking steroids in order to be able to breathe causes a depletion of your bone mass, and a depletion of your bone mass then causes easy fractures later in life. My brother is only two years older than me and he's already had a hip replacement. It has a remarkable cumulative effect.

But having said that, we know it's a great bill. We're very pleased with it, but I just wanted to hear from you—the proposed legislation before us, on the whole, we feel, obviously, is a positive way to continue efforts to protect air quality, and I'm just wanting to hear from you: Do you feel also that it's an effective way to promote the health of the people of Ontario?

Mr. Tim Lenartowych: I think that it's a significant step forward in improving the health of Ontarians. There are other areas that would be complementary. For example, a number of the recommendations that I talked about in terms of looking at carbon pricing, as well as having comprehensive greenhouse gas reduction programs and targets, I think would be of benefit as well, but I do think that the bill is certainly a great step from a health perspective.

Ms. Sophie Kiwala: Okay. That's great. Well, I'm going to end it there, with another accolade for the wonderful work the RNAO has done. You've been really remarkable partners in creating a healthier Ontario. I'd like to thank you for that.

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Mr. Tim Lenartowych: Thank you very much.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Kiwala. We shall move to the official opposition: Mr. McDonnell.

Mr. Jim McDonnell: I know that, of course, coal has been taken off the grid over the last number of years, but it's been essentially replaced by natural gas. Any discussion as far as—it's still a fossil fuel, it still produces about 60% of the greenhouse gases, so it's substantial. I'm just wondering if you've looked into that as far as the effects of it.

Mr. Tim Lenartowych: Natural gas certainly is not perfect. Again, it's not a renewable resource, so for a

short-term measure—I think that’s what it is. Where we would like to see things advance, really, is in the area of renewable energy.

Mr. Jim McDonell: I think stats show that for every kilowatt of renewable energy, 60% of it has to be backed up with natural gas; those are about the numbers. The current renewable energy plan actually increases natural gas substantially.

The Chair (Mr. Grant Crack): Ms. Thompson?

Ms. Lisa M. Thompson: In your recommendations, your organization talked of designing and implementing a carbon pricing mechanism. What’s your position on carbon tax versus cap-and-trade?

Mr. Tim Lenartowych: Our preference is in terms of looking at a carbon tax. A cap-and-trade—I think there are some benefits and some limitations to that. At the end of the day, the primary objective is that we want to look at decreasing greenhouse gas emissions and ensuring that we have the policy tool that is in place to do that. From our perspective, having that carbon tax would be the most effective method that we see, but again, having any measure is better than having none at all.

Ms. Lisa M. Thompson: Okay. One last comment, and I ask for your position on it: We know the bulk of the air quality that is impacted by coal is made outside of Ontario. What are your thoughts on that?

Mr. Tim Lenartowych: I think it speaks to the earlier point that we need to look at a number of strategies and ways we can work with our neighbours as well. Of course, air moves, particles move, so I think that having solutions at home is a good first step, and also looking at ways in which we can work with other jurisdictions to minimize that spread.

Ms. Lisa M. Thompson: Has your organization thought of those other ways, those other technologies, the other innovations?

Mr. Tim Lenartowych: In terms of looking at renewable power, yes, but in terms of how to work with other jurisdictions, again, our focus has largely been, of course, within Ontario as we’re a provincial association.

Ms. Lisa M. Thompson: Because it’s interesting: The province of Saskatchewan wants to be a leader in innovation when we talk about climate change, and they’ve developed amazing technology for scrubbers and clean coal. They too want to lead by example and help our neighbours. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate you coming before committee, Mr. Lenartowych.

Mr. Tim Lenartowych: Thank you.

The Chair (Mr. Grant Crack): I believe I’m pronouncing it correctly.

COMMUNITY ENTERPRISE NETWORK INC.

The Chair (Mr. Grant Crack): Next we have Community Enterprise Network Inc. We have the president, Mr. Jeff Mole.

Mr. Jeff Mole: Mr. Chair, can I have unanimous consent to videotape myself during my presentation?

The Chair (Mr. Grant Crack): Mr. Mole is requesting consent from the committee to film himself during his delegation. Is there any opposition? There being none, feel free.

Mr. Jeff Mole: Thank you very much, Mr. Chair. Here we go.

The Chair (Mr. Grant Crack): Mr. Mole, you have five minutes.

Mr. Jeff Mole: Good afternoon. My name is Jeff Mole, president of Community Enterprise Network Inc. Our mission is to give Ontario communities the tools they need to participate in government procurement in a way that profits will be reinvested in Ontario. We are a not-for-profit, in the business of helping communities develop community enterprise.

I’m here today to speak in support of Bill 9. However, we ask the committee to consider amending the bill to achieve cleaner air through electrification of school buses in Ontario. We believe the province should consider community enterprise for delivery of students using electric-powered school buses.

A community enterprise is a not-for-profit corporation that meets a need and provides benefits. A community enterprise is run by a group of people who get together to develop a business that creates jobs and generates economic activity with a view to investing any surplus or profits for the betterment of the community.

Community enterprise is an alternative to privatization of public services. Community enterprise delivers comparable services while reinvesting surplus revenues in education, health care and community betterment. Community enterprise can help reduce the size of government while providing better use of taxpayer funds.

The bill seems a little redundant, since the government has already directed the cessation of coal-powered generation. Having said that, it appears the purpose of the bill is to help ensure the government does its part to achieve cleaner air for future generations. A significant reduction in the use of diesel school buses could help reach this goal while creating new jobs in Ontario through the manufacture of electric school buses.

Through our research, we believe Ontario spends about \$1 billion annually transporting students to and from home and school. As the funder, the government could require that this service be delivered using electric buses.

Our concern is that this work is being outsourced to the private sector with little or no regard for the 2020 greenhouse gas targets of the province. The government launched a social enterprise strategy for Ontario in 2013. This strategy is the province’s plan to become the number one jurisdiction in North America for businesses that have a positive social, cultural and environmental impact while generating revenue.

To meet the goals of this strategy, we believe the government needs to take a strategic look at community enterprise for all government procurement. We encour-

age the government to have a conversation with us about using our community enterprise model to establish a pilot project for delivery of students using electric buses in York region.

In our experience, mobilization and access to affordable capital are the main hurdles to building a strong community enterprise sector in Ontario. Our goal is to work with government to help overcome these hurdles by recruiting directors, raising funds and building membership to help grow the community enterprise sector in Ontario.

We can't do it alone. We need a government that understands the need to invest in growing the community enterprise sector for the delivery of services. Accordingly, we encourage members to amend the bill to create a pilot program to help social enterprises be part of the procurement related to student transportation services in Ontario.

Furthermore, we encourage the members of this committee to bring forward a community enterprise act. This act would help facilitate the mobilization of communities and financial resources for developing the capacity for community enterprise to play a part in public sector procurement and the delivery of publicly funded services.

The Trans-Pacific Partnership may bring increased competition from abroad for government procurement opportunities, so now is the time to give communities adequate tools to do the jobs that governments have chosen to outsource. This is a conversation that is long overdue.

I look forward to your questions and a motion to amend the bill.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Mole. We shall start with the government. Mr. Thibeault.

Mr. Glenn Thibeault: Thank you, Chair. Thank you, Mr. Mole, for being here. It seems that every time I'm at a committee, we get to have a discussion. That's fantastic.

Part of it, too, and I think you were mentioning this in your presentation, is that Ontario is the first jurisdiction in North America to have eliminated coal as a source of electricity generation. That's like taking about seven million cars off our roads. Just for clarification, this is something that you see as a positive thing for our province, correct?

Mr. Jeff Mole: Absolutely. The extraction of coal is an extremely dirty business. The burning of it is an extremely dirty business. I think it's absolutely great that this is the way we're going, but we need to do more.

Mr. Glenn Thibeault: Okay. So I guess I can, you know, coming from you, Mr. Mole—we want to ensure that we never go back to using coal as a form of electricity. Would that be a fair statement to say as well?

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Mr. Jeff Mole: Well, I think it's a democratic society we live in. The government of the day has already made a decision that we're going to close down the coal-fired generation plants, but if some future government ran on

that we wanted to reopen them again, well, it's a democratic society.

Mr. Glenn Thibeault: So you're saying that you think it would be okay to reopen coal?

Mr. Jeff Mole: Personally, I don't think it's okay, and I don't think our organization would support reopening them, but it's a democratic society we live in. I don't know if this bill is intended to handcuff future governments or what this is intended—as I said, it seems a bit redundant. I don't know.

Mr. Glenn Thibeault: Well, making sure that we don't go back to making sure that we put seven million cars back on the roads—

Mr. Jeff Mole: And I get that, because this is an extremely dirty business.

Mr. Glenn Thibeault: So I don't see that as a redundant piece; correct? Making sure we keep seven million cars off of our roads, I think, is an important piece for us to ensure that happens. Would that be fair to say?

Mr. Jeff Mole: I don't think there's a business case for coal generation in the future, and so the bill seems a bit redundant in that regard.

Mr. Glenn Thibeault: I don't know if "redundant" would be the right word.

Mr. Jeff Mole: Maybe I'm wrong.

Mr. Glenn Thibeault: I would say that this is something that I think we need to do to ensure that we can keep those seven million cars off the roads. I think you're going to your point where you're saying you'd like to see school buses electrified, which—I'll obviously give you a second to speak to that. But if we're going to actually look at having school buses electrified, that's taking more GHGs out of our atmosphere, which is ultimately what we need to do.

Mr. Jeff Mole: Yes.

Mr. Glenn Thibeault: Perfect.

Mr. Jeff Mole: Did you want to give me a second to speak on that?

Mr. Glenn Thibeault: Yes, I was just—I just looked at the Chair. How much time do I have?

The Chair (Mr. Grant Crack): Twenty-one seconds.

Mr. Glenn Thibeault: You have 21 seconds.

Mr. Jeff Mole: As I said in the presentation, we spend a billion dollars a year on this. The funder is the province. The province could require electrification of the school buses from the supplier. There needs to be some strategic policy around that. I would encourage you to have the dialogue with me. Perhaps you might be interested in bringing forward a private member's bill in that regard.

Mr. Glenn Thibeault: Thank you, Mr. Mole.

The Chair (Mr. Grant Crack): We shall move to the official opposition: Mr. McDonnell.

Mr. Jim McDonnell: Thank you for coming today. It's interesting; you talked about the new trans-Pacific agreement and the need to be competitive, but one of the issues we have, of course, is that a lot of this work could have been done, I believe, in a much more cost-effective

manner. I think if we just look at the renewables under the Green Energy Act, the cost is \$8 billion a year now.

Mr. Jeff Mole: I think it's \$20 billion that we've invested in long-term energy contracts under the Green Energy Act, and we're perched to do another \$10 billion.

Mr. Jim McDonell: The AG was quoted as \$50 billion at the end of this year.

Mr. Jeff Mole: So I would argue that we could have gotten a better return on our investment in renewable energy had these projects been done as a community-owned, community-managed undertaking. We need to give communities the tools to make the decisions: "Is this a good idea or a bad idea for our community? Do we support it or don't we support it? If we don't support it, what happens?"

At the end of the day, if they put in a renewable energy facility in their community, they stand to benefit to the tune of maybe \$1 million, \$2 million a year for social programs and improvement of the community. That helps create buy-in amongst the community, but ultimately, we want to give the community the tools to say no if that's the will of the community. If they're a willing host, we want to give them the tools to say, "We can do this in a professional way that's going to have positive impacts on our community."

Mr. Jim McDonell: It's interesting to hear you talk about this bill being redundant. In actual fact, before the bill was even introduced last year, all of the plants had been closed. I know that the Liberal government had promised, I think, in 2007, 2011—

Ms. Lisa M. Thompson: In 2003.

Mr. Jim McDonell: In 2003, they first promised a 2007 deadline, but of course, all governments of the day had agreed—I think the Conservative government had looked at it—on a 2014 commitment—

Mr. Jeff Mole: These things take time, of course. I think I'm the poster child for time, because you guys have seen me down here for how many years now, lobbying in the public interest to get a community energy act, and that has never happened. It's 10 years later and we're still lobbying for it. Maybe, Lisa, you'd be interested in bringing that forward.

Mr. Jim McDonell: I know you talked about the electrification of school buses, but again, you're talking about the low-hanging fruit, urban—

Mr. Jeff Mole: Yes, absolutely.

Mr. Jim McDonell: I know in my riding, school busing is about 10% to 15%, but it's more rural; the distances wouldn't be practical. But, certainly, we've got to start somewhere in encouraging the technology.

Mr. Jeff Mole: That's why I said that York region would be a good place to start. It's the fastest-growing school board in the province, and there are plenty of opportunities to put in the electrical charging infrastructure in the region.

Mr. Jim McDonell: Do you see any reason why the government would come out with this bill now that all of the plants are closed? Is it just a—

Mr. Jeff Mole: Oh, I don't know. I guess it's that there are a lot of people pulling the strings as to how messages get let out and how new ideas come forward. I'm doing my best to bring forward new ideas. Who knows how these decisions get made? But hopefully the minister is listening and will take the time to give me a call.

Mr. Jim McDonell: Thank you.

The Chair (Mr. Grant Crack): Thank you very much; I appreciate it. We shall move to Mr. Tabuns. Welcome, Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Mr. Mole. Thanks for your presentation earlier.

Mr. Jeff Mole: Thank you, Mr. Tabuns.

Mr. Peter Tabuns: Can you tell me if there are jurisdictions now in North America or western Europe that are using electric school buses?

Mr. Jeff Mole: There is a manufacturer that produces them and they are available for sale. That manufacturer is not producing in Ontario, so part of my presentation was that we could bring the manufacturing jobs here to Ontario, to manufacture those buses that we plan on using in Ontario. If we become a world leader at it, then great; let's start selling those abroad.

At this point in time, I'm not aware of any jurisdiction, but that's a good question and I will do that research. Thank you.

Mr. Peter Tabuns: Given that they are being produced, which jurisdictions are buying them and using them?

Mr. Jeff Mole: They seem to be used in, I think, Quebec and California, if I'm not mistaken.

Mr. Peter Tabuns: Okay. Thank you very much. I have no further questions, Mr. Mole.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Tabuns, and thank you, Mr. Mole. We appreciate you coming before our committee this afternoon.

Mr. Jeff Mole: Thank you, Mr. Chair.

ENVIRONMENTAL DEFENCE

The Chair (Mr. Grant Crack): We shall move to the next item on the agenda, and we're right on time, ladies and gentlemen. Congratulations.

Environmental Defence: Mr. Adam Scott, climate and energy program manager. Is Adam with us this afternoon? Welcome, sir. Good afternoon. You have five minutes.

Mr. Adam Scott: Good afternoon. Thanks for taking a few minutes to listen to me today. I really appreciate the opportunity.

I would like to start by congratulating Ontario for taking the single largest ever initiative to reduce carbon pollution in North America by closing the coal plants in Ontario. I really wanted to take a minute in support of this bill to underline the significance of that effort. I know many of you may have heard some of this before, but I think it's worth reiterating some of it.

It's obvious that coal-fired electricity in Ontario was severely negatively impacting the health of millions of Ontarians. In 2000, the Ontario Medical Association detailed that there were at least 1,900 premature deaths, 9,800 hospital admissions, 45,000 emergency room visits and over 46 million minor illnesses caused by smog in Ontario. At its peak, coal contributed to 35% of Ontario's climate pollution, 41% of Ontario's nitrogen dioxide pollution and 52% of Ontario's sulphur dioxide pollution.

While those statistics are really quite powerful, perhaps even more convincing and maybe more noticeable to the general public is the dramatic improvement to the air quality that has occurred from closing the plants. Ask anyone on the street and they will tell you that there is a real difference. I know that I personally have noticed it.

In 2005, Ontario suffered through 53 smog days where the government had to warn its citizens about the risks of just going outside or being active. That's roughly half of a summer in terms of days. There were estimates that the pollution was, through all of the socio-economic, environmental and health impacts, costing the province over \$4.4 billion annually.

Last year, Ontario had zero smog days using the same statistical measure. I am a reasonably young guy and I can tell you personally that the change has been dramatic in my lifetime and it's noticeable this summer. I was thinking about it all summer: "Wow. We just don't get smog days." The quality of life that that has given back to Ontarians is priceless.

My second major underlining of significance is what saying no to coal-fired power in Ontario means for our climate. Ontario's efforts, as I mentioned, represent the single largest ever initiative to cut carbon pollution in North America to date. Closing the coal-fired power plants here cut CO₂ emissions by more than 30 million tonnes, which is equivalent to roughly seven million cars taken off the road. I wanted to say that that is a big deal. Other jurisdictions around the world have noticed that, and this legislation that permanently puts an end to burning coal in Ontario is a really important and significant step to permanently close the door on coal is a big deal, and it really does signal our leadership in the world.

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Given the seriousness of climate damage, there's no defensible reason that Ontario should ever need to burn coal to create electricity again. The alternatives—renewable energy technologies, energy efficiency measures, smart electricity grids and grid storage—have all come of age and have really made fossil fuel power generation, on that scale, obsolete.

I can summarize really quickly: Leadership from groups like the Ontario Clean Air Alliance and Environmental Defence really helped us support that work and to educate the public and to move towards practical solutions, and we're very proud now to support this bill and see Ontario move forward and double down on a sustainable and a cleaner energy future.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Scott. We shall start with the third party: Mr. Tabuns.

Mr. Peter Tabuns: Mr. Scott, thank you for coming and making a presentation. Are there any amendments to this bill that you would like to propose?

Mr. Adam Scott: No. From our perspective, for the time being everything in the bill works to our satisfaction.

Mr. Peter Tabuns: Then I have no further questions. Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Tabuns. I appreciate that. We shall move to the government side: Mr. Thibeault.

Mr. Glenn Thibeault: Is it Mr. Scott or Mr. Brooks?

Mr. Adam Scott: Mr. Scott.

Mr. Glenn Thibeault: Mr. Scott.

Mr. Adam Scott: Yes, there was a name change on this.

Mr. Glenn Thibeault: Okay. Awesome. Thank you. I'm glad I clarified that; otherwise, I would have been calling you Mr. Brooks the whole time.

Mr. Scott, thank you for your presentation. I know you reiterated some of the points I was trying to make earlier, but truly making sure that we close the door to coal—and what I liked that you talked about is that we have new technologies that are coming forward. There is no reason why we should ever have to go back to coal. Can you comment on that briefly?

Mr. Adam Scott: Yes. If you look now, I think Ontario was actually very prescient in its decision more than a decade ago to phase out coal, because if you look now, this is where the world is going. The coal markets, the value of companies that actually operate plants that produce coal or mine coal, have plummeted in the last couple of years. The price of coal has collapsed, and that's because the world is moving away from it.

As a generation source, it's no longer competitive economically, and of course the overwhelming health and environmental impacts make it an inferior source of electricity. If you look in the United States, overwhelmingly coal power is being replaced across the United States. In China, they have peaked in terms of coal capacity and have actually started reducing as well. This isn't just something that has happened in Ontario and is now spreading across the world. Coal power is never going to come back. The alternatives have far surpassed it. Renewable energy technology globally leads as the number one investment in generation of any kind all over the world. So it has surpassed any other form of generation, coal being well down the list now.

Mr. Glenn Thibeault: So is it fair to say that making sure that this door to coal stays shut is paramount for your organization?

Mr. Adam Scott: Absolutely. As I said earlier, there's absolutely no defensible reason why Ontario should ever need to burn coal again, and it would be immoral to do so, given all of the impacts that I've outlined.

Ontario has done a wonderful thing in terms of investing in renewable power, in terms of investing in energy efficiency. Our electricity grid right now is not in the place that it was when we started the phase-out, and we have so many other options that are now online and so many other ways of generating electricity that there's no need for us to ever go back to this dirty source.

I'm very happy to support the bill for that reason. We need to just put this to bed, stop thinking about it, move away, move on and think about all of the other solutions that we're going to need to find to the climate challenge.

Mr. Glenn Thibeault: Do I have any time left, Chair?

The Chair (Mr. Grant Crack): Yes: seven seconds.

Mr. Glenn Thibeault: With that, I'd like to say thank you for your presentation, and thank you, Chair.

The Chair (Mr. Grant Crack): Thank you very much. We'll move to the official opposition: Ms. Thompson.

Ms. Lisa M. Thompson: Thanks for being here. You made mention, Mr. Scott, that renewables have made fossil fuels obsolete, but we know that industrial wind turbines are not reliable and they have to be backed up by natural gas. So the reality does not match the statement that you just made. How do you reconcile that?

Mr. Adam Scott: Well, that's actually not true in the sense that wind power is variable, but so is demand on our grid. Our grid is designed to manage quite dramatic swings throughout the day in demand, as well as supply from various sources. The introduction of wind power to our grid has actually substantially cleaned up a significant percentage of our energy production. As we continue to add new sources of renewable energy of many different types in a mix, as well as to more intelligently manage our grid through real-time demand control, the variability of wind power is not an issue yet for Ontario.

Ms. Lisa M. Thompson: I guess this is a point that we probably will agree to disagree, with all due respect. If we were to look on IESO's site today, it would be interesting to see the percentage of wind in our total mix for the day. On average, on an annual basis, it runs at between 2% and 3%. It does need to be backed up.

Mr. Adam Scott: It's interesting, though: Ontario has an excellent baseload hydro power system, which works very effectively to fill gaps in real-time with something like wind power. That has actually been a really effective way of backing things up. It's not necessarily required to have natural gas to back up something like wind generation.

Ms. Lisa M. Thompson: Right, okay. You also alluded to needing solutions for climate change. I totally agree with that. From your perspective: carbon tax or cap-and-trade?

Mr. Adam Scott: Actually, I'm not too concerned about which measure is used. I think that the pricing of carbon, in particular, is the most valuable thing. We can't continue to pretend that there aren't broader impacts of burning carbon. The policy mechanisms all work in the right direction. I'm not super concerned about the exact detail of which.

Ms. Lisa M. Thompson: Okay.

The Chair (Mr. Jim McDonell): Mr. McDonell.

Mr. Jim McDonell: You talk about taxing carbon. Should we go it ourselves or should we work with our partners to the south? I know we had the governor representative from Indiana, and their electricity sector is about 99% coal-fired—these are his numbers—or Ohio, similar; many states.

We're now spending \$8 billion more on these renewable initiatives than the power costs. How far can we go? We're not competitive. Those numbers are from the Auditor General—they're not ours—in her latest report. That's \$15 billion so far. It speaks about really going ahead against the science before it's ready. There are initiatives. It's great to lead technology, but the rest of the world is leaving us—

Mr. Adam Scott: Sorry, what science?

Mr. Jim McDonell: Not basing it on science. The numbers they use when they build the renewables: 60% is placed on backup with natural gas. Those are the numbers—

Mr. Adam Scott: No, that's not accurate.

Mr. Jim McDonell: —that OPG are using. That's a greenhouse gas.

The Chair (Mr. Grant Crack): Final comment.

Mr. Adam Scott: Yes. On my end, it's absolutely important that Ontario price carbon, as the majority of other developed jurisdictions around the world are moving in that direction. There are dozens and dozens of jurisdictions in North America alone pursuing a price on carbon, and that's critical.

Also, Ontario's shift towards a cleaner electricity sector is hugely beneficial for us in other ways and potentially could create a clean energy export business as well. As you mentioned, some jurisdictions south of the border still rely heavily on fossil fuel generation, but they have renewable portfolio standards that they're required to meet. One way that they could meet those standards is to actually receive clean electricity from a province like Ontario. So that's something that could be a real potential benefit and opportunity for us in the future.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate your time coming before committee this afternoon.

Mr. Adam Scott: Thanks for having me.

DAVID SUZUKI FOUNDATION

The Chair (Mr. Grant Crack): Next we have the David Suzuki Foundation. We have Mr. Gideon Forman, who's a climate change and transportation policy analyst. We welcome you, sir. You have five minutes.

Mr. Gideon Forman: Thanks very much, Mr. Chair and committee members. Thanks for the opportunity to speak today regarding Bill 9, the Ending Coal for Cleaner Air Act. As the Chair mentioned, my name is Gideon Forman. I'm a policy analyst with the David Suzuki Foundation here in Toronto.

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In my brief remarks today, I will be conveying the David Suzuki Foundation's strong support for this bill, and for the elimination of coal as a fuel source in the generation of electricity.

Some commentators have questioned the necessity of Bill 9, given that all of Ontario's power plants now employ fuels other than coal. Why is the bill needed, they argue, given that this fuel is no longer used for the province's electricity generation? We believe there are at least two reasons for moving forward with the legislation.

First, although the current government supports a coal-free grid, there is no guarantee, obviously, that this commitment will be embraced by governments in the future. In the absence of Bill 9's passage, it's quite conceivable that a government five, 10, or 15 years down the road will see fit to resume the combustion of coal for electricity production. They may justify it in terms of price. They may justify it in terms of reliability or for reasons that are specific to a future political context that we can't imagine. They may suggest that if coal-fired power isn't brought back, the province will suffer some extremely unattractive consequences.

The David Suzuki Foundation believes that coal poses so great a threat to human health and the environment that it should simply be eliminated from the suite of possible fuels used for power generation. In a word, we cannot conceive of any reasonable scenario in which its use would be justified. That's the first reason we support Bill 9; if properly enforced, it will ensure Ontario's standalone power plants never again employ this most climate-destructive of fuels.

The second reason we support the bill is that its passage will send a crucial message to other jurisdictions—states, provinces; indeed, even countries—that a successful industrial economy can be powered with a 100% coal-free electricity grid. To those who say coal is a necessity, we can point to the Ending Coal for Cleaner Air Act and say, "What about Ontario?" Here's a jurisdiction whose economy is strong—the Conference Board of Canada just said Ontario's economic outlook "remains bright"—which has not only abandoned coal as a matter of policy but has entrenched this decision in legislation.

As you may know, the David Suzuki Foundation is working to convince the province of Alberta to renounce coal-fired power. I can tell you, having worked on this as well, that the passage of Bill 9 would be very helpful in this regard. This new law would show Alberta it can both protect the environment and have a strong economy. It can grow jobs and attract investment while abandoning a terrible source of GHG emissions.

We also believe this legislation will be influential beyond Canada's borders. It was not accidental that when Premier Wynne announced the coal plants would be closing, she stood next to a global authority like Al Gore. Mr. Gore said Ontario's coal phase-out was of international significance, and he suggested that if other industrialized economies went ahead and shuttered their

plants, Ontario's leadership would be one of the reasons. In a word, Ontario showed the world it could be done.

The only shortcoming of Bill 9, in our view, is its exemption of facilities where generation of electricity is not the primary purpose. We understand the government wants a certain degree of flexibility in the legislation, but we're concerned that the use of coal under any circumstances poses an unacceptable risk to our climate and human health. That would be our preference, to have that removed from the bill. At a bare minimum, we would like to see a sunset clause on this exemption, under which it would be removed from the legislation within five years.

The world's scientists tell us we must reduce our energy-system emissions to near zero by 2050. Eliminating coal-fired power is a key piece of this, and the province is to be commended for its unprecedented action on this file. The fact that 2014 had not a single smog day—as Mr. Scott mentioned—is a testament to the value of Ontario's work so far. But if we're to ensure Ontario continues to be a clean-air leader and a climate leader, we must take coal off the table completely.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Forman. We shall start with the government. Ms. Hoggarth.

Ms. Ann Hoggarth: Good afternoon, Mr. Forman.

Mr. Gideon Forman: Good afternoon.

Ms. Ann Hoggarth: Thank you very much for your presentation.

Mr. Gideon Forman: A pleasure.

Ms. Ann Hoggarth: As a former educator, I'd just like to say that I and my students have enjoyed many of the documentaries and programs that David Suzuki and the foundation have put forward.

Mr. Gideon Forman: Thank you.

Ms. Ann Hoggarth: I would also like to thank him for championing this kind of imitative long before people realized how important it was. That is important to all of the world, not just Ontario.

Your group has made it clear that there is a need for increased environmental protection. Do you think this legislation, on the whole, is a positive way to continue efforts to protect the environment and the people of Ontario?

Mr. Gideon Forman: Absolutely, yes. On the whole, we made a couple of remarks about an exemption we'd like to see, but overall, broad sweep, we think it's an excellent piece of legislation—absolutely necessary.

Ms. Ann Hoggarth: Great. Do you believe there are other areas where they have not made this final step and there may be a case of later governments coming and putting those coal factories back into existence?

Mr. Gideon Forman: Well, it's the case that Ontario is actually so far ahead of other jurisdictions that there aren't other jurisdictions that have yet completely gotten off coal. Washington state and Oregon, as you know, are planning to be there in the next few years, but they are not there yet. So there isn't even another jurisdiction that could go back to coal; that's how far ahead of the other jurisdictions Ontario is. But if they did go off and they

didn't have a piece of legislation like Bill 9, yes, a future government could bring back coal. That's why it's absolutely important that you do pass this to shut that door.

Ms. Ann Hoggarth: Thank you so much.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the official opposition. Ms. Thompson.

Ms. Lisa M. Thompson: Thank you for being here. My first question is, does the David Suzuki Foundation support nuclear energy?

Mr. Gideon Forman: It wouldn't be our first choice for energy generation. We're in favour of a 100% renewable grid. The concern we have about nuclear is severalfold. One is the waste, of course. We have cancer concerns about the use of nuclear energy. And, of course, the whole nuclear cycle, if you begin with uranium mining, is highly GHG-intensive, unfortunately. All of that work mining and refining uranium, transporting it, building the reactors, involves heavy diesel-powered equipment. As uranium becomes rarer and rarer in the world, it's actually harder and harder to get to the high-quality uranium; it requires more digging. I won't bore you with all the details, but suffice it to say that the production of uranium is a highly GHG-intensive activity, and so we have some very great concerns about that from a climate change point of view.

Ms. Lisa M. Thompson: Interesting. When I reflect upon Obama's clean power plan, he is looking to nuclear to move and make a difference in terms of climate change. In fact, I believe they're building two nuclear sites in the southern states. I think it's safe to say, going forward in the spirit of a focus on improving our climate, that nuclear is definitely going to be a significant part of the overall energy mix, both here in Canada and, growing, in the United States.

Mr. Gideon Forman: Was there a question, or that was just a comment?

Ms. Lisa M. Thompson: That was a comment.

Mr. Gideon Forman: Sure.

Mr. Jim McDonell: I know we have to agree to disagree on this one, but nuclear power is one of the extremely low greenhouse gas producers. Mining is a very small part of it. The nuclear process itself is essentially zero greenhouse gases. I think the science proves that out.

I know you talk about how the real reason for this is so future governments can't, but everybody knows it wasn't that many years ago that the previous government passed legislation prohibiting deficit governments. The government of the day, as a government of the future, can of course always change that. The legislation really is around being able to have the facilities in place so it allows us to get rid of coal, and the huge nuclear fleet that's been built over the years by a previous government has put us in the stead that we can now get rid of coal going forward.

I don't think there's any country in the world that even hopes to build an electricity system on 100% renewables for the foreseeable future. It's something that technolo-

gies just won't allow, certainly if you're industrialized at all.

Mr. Gideon Forman: Did you want me to comment on that, sir?

Mr. Jim McDonell: Sure.

Mr. Gideon Forman: The question of a 100% renewable energy grid is an interesting one. There's quite a bit of science that has been done out of Stanford. You may have read Professor Mark Jacobson, a really renowned prof in engineering at Stanford. He's done modelling with his team showing, in fact, that the whole world could be powered with what he calls WWS: wind, water and sun power. He recently did some modelling for every state in the United States, again showing that all 50 US states could be powered by 2050 or so by WWS: wind, water and sun. So there are certainly scientists out there who say that it's technologically possible.

He also argues that it's economically feasible. As you probably know, wind power is expected to be the least expensive of all sources of generation by about 2020, at about four or five cents a kilowatt hour. That's what the scientists are saying.

Mr. Jim McDonell: It may be—and it's hard to know the true cost of wind power, because the subsidies are so high. You could tell by the—

Mr. Gideon Forman: You're talking about the FIT contracts?

Ms. Lisa M. Thompson: Yes.

1510

Mr. Gideon Forman: Of course, they are designed to come down, aren't they? The FIT contracts aren't so different from any other situation where a government decides that it wants to support a certain sector to build up that business, to help entrepreneurs, and over time the FIT comes down. The FIT is designed to come down, so it's really not very different from any other sector that we want to support: the auto sector or any other. Of course, for decades the nuclear sector has been subsidized.

Mr. Jim McDonell: I mean, FIT contracts—

The Chair (Mr. Grant Crack): Okay, thank you very much.

Ms. Lisa M. Thompson: They've been there for 20 years.

The Chair (Mr. Grant Crack): Thank you very much. Mr. Tabuns.

Mr. Peter Tabuns: Gideon, it's nice to see you. I actually don't have questions for you. You've set out what your approach is on the bill. I've heard you defend renewable power. I'm good. Thank you.

Mr. Gideon Forman: Thanks, Mr. Tabuns.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Tabuns, and thank you, Mr. Forman, for coming before committee. We really appreciate it.

Mr. Gideon Forman: A pleasure.

POLLUTION PROBE

The Chair (Mr. Grant Crack): Next we have, from Pollution Probe, the chief executive officer, Mr. Bob Oliver. Welcome, sir.

Mr. Bob Oliver: Thank you.

The Chair (Mr. Grant Crack): How are you today?

Mr. Bob Oliver: I'm doing well.

The Chair (Mr. Grant Crack): Great. You have five minutes, sir.

Mr. Bob Oliver: I wish to preface my remarks today by thanking the Standing Committee on General Government for the opportunity to present the views of Pollution Probe regarding this act. Pollution Probe was formed in 1969 in Toronto in response to emerging science and public health concerns about air pollution. In fact, it was a CBC documentary entitled *Air of Death* that galvanized students and faculty members at the University of Toronto to launch a probe into the sources of this new pollution and to find possible solutions.

Now, more than four decades later, and following a long pattern of worsening air quality in southern Ontario, we are finally beginning to see sustained reductions in the frequency of smog events and general improvements in the quality of the air we breathe. Towards the middle of the last decade, air quality alerts issued by the government of Ontario as a warning to citizens to limit outdoor activity and thus exposure to smog were on the rise, topping 50 smog days in 2005. By contrast, the past few years have seen only a handful of alerts, if any, despite periods of persistent summer heat.

Photochemical smog, visible as a yellow-brownish layer of haze, forms when oxides of nitrogen mix with volatile organic compounds in the presence of heat and sunlight to produce ground-level ozone, which is the principal constituent of smog. The oxides of nitrogen are a product of coal combustion, and other criteria are contaminants that can trigger respiratory illness, such as particulate matter and oxides of sulphur. These emissions can be carried over far distances on wind, eventually settling into areas where they contribute to smog formation. Thus, proximity to coal-fired power plants is not the only measure of risk to Ontario communities.

The reduction of coal-fired electricity generation contributed significantly to the positive air quality trends that benefit public health. To date, Ontario's phase-out of coal for power generation also represents the largest quantifiable contribution to Canada's reductions in greenhouse gas emissions that contribute to climate change.

I have no doubt that you will hear detailed testimony from other speakers representing the environmental movement and the medical profession about the positive impacts that phasing out coal has had on human health and well-being, hospital admissions, chronic respiratory illnesses, economic productivity and savings to our public health care system, not to mention the deposition of mercury into our ecosystems and, ultimately, into our bodies. Therefore, I would like to focus my brief remarks today—somewhat brief—on some often overlooked implications of the commitment to cease the combustion of coal now and in the future.

First and foremost, a coal-free electricity system in Ontario supports and is synergistic with some very cru-

cial transformative technological innovations that will lever much deeper reductions in greenhouse gas emissions over the long term in other major emitting sectors of our economy. A prime example is electric vehicles. In jurisdictions where coal-fired power dominates, the net, system-wide greenhouse gas emissions benefits of displacing gasoline and diesel with electricity to power personal and commercial vehicles is negligible. That is not to say there are no economic or system performance benefits associated with electric vehicle use in such circumstances, but the environmental benefits are magnified substantially when electric vehicles are powered by low-emissions or emissions-free power sources.

Another example that plays uniquely to the strengths of Ontario's private sector innovators is power-to-gas electrolysis and hydrogen fuel cell technology. Industrial-scale electrolysis systems can convert substantial levels of emissions-free electricity to hydrogen gas, which can be subsequently used to power fuel cells in vehicles and stationary applications. The only by-product of this process is heat and water. The hydrogen can also be mixed with natural gas to reduce the fuel's overall carbon intensity.

Systems such as these are currently being manufactured in Ontario for export to countries such as Germany to enhance electricity system performance and electrify passenger rail systems. These examples demonstrate how Ontario's coal-free electricity system is a natural fit and a catalyst for an increasingly electrified and low-carbon economy.

Secondly, a coal-free electricity system in Ontario is very much aligned with the prevailing federal policies in Canada and the US. In Canada, federal regulations will prohibit the operation of traditional coal-fired power plants in the coming decades. In the US, announcements by the Obama administration have set the stage for decreasing reliance on coal for generating electricity, which is significantly enabled by the availability of low-priced natural gas due to the development of US shale resources.

Thirdly and finally, a coal-free electricity system in Ontario is concomitant with an embracing of emissions-free generating systems, namely nuclear and passive renewable energy. Passive renewable energy technologies, such as photovoltaics, are instrumental to distributed power generation systems that can be highly cost-effective at the community scale. At larger scales, nuclear power systems are an immediate solution to centralized electricity supply that is essentially emissions-free.

By prohibiting the combustion of coal for the purpose of generating electricity, Ontario is committing to innovating solutions in either renewable technologies or nuclear technologies or, more than likely, to both. If I may speak philosophically for a moment, the next great leap in the human enterprise will be enabled by much higher qualities of energy than combustion heat currently provides, and nuclear sector innovations such as fusion and new reactor designs are a point along this pathway.

In summary, because of the reasons I've referenced in my remarks, and for many more reasons, Pollution Probe supports this bill. Thank you for your time and attention.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Oliver, and we shall start with the official opposition. Mr. McDonnell looks rip-roaring and ready to go.

Mr. Jim McDonnell: Thank you for appearing today. You talked about Pollution Probe starting in around 1969. At that time, how significant was coal-fired electricity generating to the pollution issue?

Mr. Bob Oliver: Coal-fired power was not a significant contributor at that time. It grew significantly over the 1970s and 1980s. But at that time, we were looking into industrial sources of pollution. The primary pathway to human health risks was through agricultural systems, but air pollution has always been a chief concern at Pollution Probe and we have advocated for coal phase-out for at least, I would say, 20 years.

Mr. Jim McDonnell: I know, certainly, travelling to Toronto back in the early 1970s, say, before almost all these plants were turned up, pollution in Toronto was significant, especially coming from rural Ontario, where we saw very little. When I travelled even just as far as Cornwall, the industry alone was—it gave certainly a negative connotation around the city of Cornwall. They were, of course, the second-largest water power source in the province, and of course, they get their electricity from Quebec. Most at that point was industrial, and we got a lot with the science.

You talked about the next technologies around 2050, before we can look at getting some of the benefits.

Mr. Bob Oliver: Oh, I'm sorry, is it—

Mr. Jim McDonnell: The baseline is about 2050 for newer technologies to come on that are practical, to get away from some of our older technologies—

Mr. Bob Oliver: I'm not sure I understand the question.

Ms. Lisa M. Thompson: I can—

Mr. Jim McDonnell: Yes, sure.

Ms. Lisa M. Thompson: Actually, if I may, this bill, Bill 9, looks to shut down Atikokan generating station, Lambton generating station, Nanticoke generating station and Thunder Bay generating station. Do you think that just mothballing and letting these stations collect dust is a good use of capital investment on behalf of the Ontario taxpayer, or what should we be seeing in terms of future technologies, future use of stations that were a significant investment of Ontario tax dollars now just sitting idle?

Mr. Bob Oliver: Well, it's never too late to undo a mistake. Perhaps the question is really not whether or not it was a responsible use of taxpayer dollars to build those stations in the first place. But they're there now; they have value on the books. I know in Atikokan they're looking at firing with biomass, for example. That's a ready option.

I'm not sure that really addresses some of the innovation initiatives that you would have an eye toward 2050

seeing evolve. It's a solution. If it makes use of wood waste product, to that extent, it's probably not a bad one.

1520

Mothballing them: Again, as long as they're not burning coal, I don't think we're technically saying to mothball them. But if that's the logical result of re-directing investments on behalf of the public interest towards public health gains, innovative opportunities, and the benefits that are associated with clean energy in the future, then that's perhaps a worthwhile bet to make.

Ms. Lisa M. Thompson: For the record, could you go back and revisit some of the innovation that you would like to see leading up to 2050?

Mr. Bob Oliver: Certainly. I remarked on two particular areas of innovation that are enabled and are synergistic with a coal-free Ontario, one of which is electric vehicles, having a very low emissions rate. Obviously, what you're doing is, to the extent that you can displace traditional vehicles with electric vehicles for use in Ontario, the supply of the emissions-free electricity is leveraging much deeper reductions in larger sectors with respect to their emissions inventory.

The other one that I mentioned relates to some of the world-class leading manufacturing and technology developers in Ontario. Hydrogenics is one of them. I recently learned that they're—it's a \$30-million contract with Alstom, which is a rail company in Germany. Basically, they're looking to electrify their rail system in order to reduce their GHG emissions—

The Chair (Mr. Grant Crack): Thank you very much.

Mr. Bob Oliver: Oh, I'm sorry.

The Chair (Mr. Grant Crack): Sorry to interrupt.

Ms. Lisa M. Thompson: Thank you for that.

Mr. Bob Oliver: Okay.

The Chair (Mr. Grant Crack): Mr. Tabuns.

Mr. Peter Tabuns: Mr. Oliver, thanks for being here today. The only question I have is: Do you have any amendments that you would like to see in this bill?

Mr. Bob Oliver: No.

Mr. Peter Tabuns: There are none? Then I have no further questions.

Mr. Bob Oliver: Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Tabuns. We shall move to the government: Ms. Kiwala.

Ms. Sophie Kiwala: Thank you, Mr. Oliver, for being here today. It was a very interesting presentation. You've brought forward lots of great points.

One of the first things I want to say is that I think you're probably aware that Thunder Bay and Atikokan have not been mothballed. They're using biomass in those facilities now. I just wanted to make sure that was there, for the record.

Mr. Bob Oliver: Yes.

Ms. Sophie Kiwala: Also, another thing that I want to bring out: This is absolutely not a redundant piece of legislation. I know you know that, but it's remarkable to me how sometimes those words come out.

I used to live in Turkey, where they had been using coal. They were in the process of making a conversion away from coal at the time that I was there. You could actually taste the air at that time. We're not aware of that here.

It's really important legislation. I know that you know that.

I'm particularly interested also in fuel cell technology and the economic prospects that that will bring to our communities. I'm wondering if you can speak a little bit about that.

Mr. Bob Oliver: The current situation in Ontario is that we have, at times, a surplus of baseload generating power which we have to pay other jurisdictions to take off our hands, because we have no demand for it in the province.

One of the options that's currently being implemented in Ontario is our pilot power-to-gas, where you take that surplus power, you run it through an electrolyzer—which is manufactured in Mississauga, right here in Ontario—and it creates a store of hydrogen gas that can subsequently be used for a whole range of industrial purposes. In the Germany example that I was mentioning, that surplus gas is going to be used to power fuel cells to generate electricity to power the electrified passenger rail system in that country.

That's an example of how a robust and relatively emissions-free electricity system can actually be used to start driving down substantive emissions in other sectors that are not directly related to the generating sector. That's an example. Again, that uses technology that's built here.

This is why I think the effect of the bill is to communicate a commitment to moving away from fossil-fuel-based systems and towards an electrified economy: a higher-quality energy system and a more productive economy. I think that's an important purpose of the bill.

I think another function of the bill is that it's analogous to a compliance feature. We have already phased out coal; now this bill ensures that we don't back off on the achievements that we've made.

When I think about the last couple of weeks—we've all been witness to the Volkswagen scandal. That's an example of what happens when government eases up and it makes the presumption that industry is operating in the spirit of the law. In this case, that wasn't the case. So I think this piece of legislation serves an important feature of government in that respect as well.

Ms. Sophie Kiwala: Excellent; thank you.

The Chair (Mr. Grant Crack): Thank you very much. Thank you, Mr. Oliver, for coming before committee this afternoon. We appreciate it.

Mr. Bob Oliver: Thank you very much.

GREENPEACE CANADA

The Chair (Mr. Grant Crack): Next on the agenda we have, from Greenpeace Canada, the head of the energy campaign, Mr. Keith Stewart. Welcome, sir.

Mr. Keith Stewart: Thank you very much.

The Chair (Mr. Grant Crack): How are you today?

Mr. Keith Stewart: Great.

The Chair (Mr. Grant Crack): Good. You have five minutes, followed by nine minutes of questioning from the three parties. Welcome.

Mr. Keith Stewart: Sure. My name is Keith Stewart. My background is, I did my PhD in environmental policy up at York. I currently teach a course in energy and environmental policy at U of T, which actually I'm going to have to leave this to go to. They notice if you don't show up.

I've worked for a variety of groups. I worked for the Toronto Environmental Alliance. For seven years, one of the big things I was working on was trying to reduce smog, including closing coal plants. I have worked for the World Wildlife Fund on climate change, and I work at Greenpeace.

As a student of government, I'll say that peace, order and good government are generally not very exciting. You don't get a lot of thanks for things not going wrong. You generally get noticed when things do go wrong. I think that a lot of good government is about doing the boring stuff that makes sure nothing goes terribly wrong.

I think, however, the decision to close coal plants is going to be remembered as one of the most visionary policies of our generation. Ontario was a leader in this area; we're now being followed by places like Alberta. Alberta is now looking at how they can phase out coal. Alberta currently burns more coal than the rest of the country put together. So showing that this is possible and that this is a reasonable thing to do has been an important contribution that Ontario has made to, I would say, Confederation.

Deciding to close coal plants in return for cleaner alternatives: In Ontario, it has been a mix of efficiency, renewables and natural gas. We would like to see that as a strictly interim measure. This is the single largest greenhouse gas reduction achieved by a policy action in North America. This is the kind of thing which is being studied elsewhere. I get questions on it from my colleagues regularly: "How is this done?" No one will say that everything has gone perfectly smoothly, but I do think that the contribution that Ontario has made to reducing greenhouse gas emissions and to stimulating the renewable energy economy, which is the way of the future—these are great things.

So I just wanted to come and say that I see this bill as—there has been this decision taken to close these plants. This bill is about making sure that they stay closed. With that, it's rare that Greenpeace gets to support 100% something that a government is doing—I'm trying to think of the last time we did it, and it doesn't come to mind readily. But I think this is a good bill. It's a good action to take and I think that it is something that is being studied by others who are looking to do the same thing. Thank you for your time.

The Chair (Mr. Grant Crack): Thank you very much. We shall start with the government: Mr. Dickson.

Mr. Joe Dickson: Thank you, Mr. Chair. Thank you very much, Keith. Do you have a pencil or a pen in your hand?

Mr. Keith Stewart: I do.

Mr. Joe Dickson: Just jot down a couple of words; I'm going to ask you about five questions at once.

Number one: I know how much Greenpeace is involved in both protecting and conserving the environment and promoting peace. Question one would be: Is the appropriate legislation before you a positive way to continue to protect the environment?

Number two: Are you pleased with the change in the name of the Ministry of the Environment to the Ministry of the Environment and Climate Change, and a couple of great ministers, Bradley and Glen Murray? Any time you want him, you can find him at a farmer's field letting farmers know about the new agriculture standards that are coming forward. That's where I get him on the phone.

Solar: The problems that have gone through in solar on a government from a different era that just didn't put the capital into it so it was dilapidated, which allowed some uncouth solar sales people to sell it with no grid to put it through.

Quickly, have you had an opportunity to see or read Pope Francis's papal encyclical, because it seems to lend in exactly with your criteria.

Sorry; I could put more on, but it's the first time I've had the opportunity to speak to Greenpeace. Thank you.

1530

Mr. Keith Stewart: I do think that this is an important step towards protecting our environment. Climate change is, in Greenpeace's opinion and in the opinion of many of the world's leading scientists, the greatest threat to our environment, to human civilization and to peace. The Pentagon—my good friends at the Pentagon—call climate change a threat multiplier, because the kinds of changes it brings around increase insecurity, and that causes other existing conflicts to be exacerbated. So as a contribution to environmental protection, to a better quality of life—particularly for my kids and eventually when they have their kids—and as a contribution to peace, I think it's a very positive measure.

Moving from the "Ministry of the Environment" to adding on "Climate Change," I think, is something that will also spread across the country. I remember writing my dissertation; part of it was on the appearance of ministries of environment in the 1970s. They didn't exist before then. It was in response to the recognition of a new challenge which wasn't being fully addressed, so there was the creation of these positions right across the industrialized world. I think we're going to see this move towards ministries of the environment and climate change.

One of the biggest challenges we've faced is that, unlike something that can be solved by an end-of-pipe technology—putting a scrubber on it—climate change has to have a whole-of-government approach. That's very hard to integrate across departments, across silos, so hopefully this is a recognition that there needs to be a

greater focus. I'm supportive, but I do think it also needs to part of cabinet in general. It's not something that can actually be done by one ministry or one minister.

I wasn't entirely sure, on the solar question, which problem you were referring to.

Mr. Joe Dickson: I don't want you to run out of time. The chairman can get a little crusty at this time of day.

Mr. Keith Stewart: In terms of Pope Francis's encyclical, I have looked at it. It's one of those—I don't know if you saw the recent speech by Mark Carney on the risk posed by high-carbon assets. I saw an interesting response from someone saying, "Well, when my banker, my pope and Greenpeace are all telling me the same thing, maybe I should listen."

Mr. Joe Dickson: Good point. Thank you very much.

The Chair (Mr. Grant Crack): All right. Thank you very much. We appreciate it.

We'll move to the official opposition: Ms. Thompson.

Ms. Lisa M. Thompson: Thanks very much. It's safe to say we all care about our climate and are concerned about climate change. Given your position and experience, I'm just wondering: In terms of tools to move towards managing climate change, do you prefer carbon tax or cap-and-trade?

Mr. Keith Stewart: Actually, I lecture on that tonight. I could pull out my PowerPoint slides.

The three things that define effective carbon pricing—it's not actually which system you use; it's how you do it. I think it's actually easier to do a good carbon tax, but you can also do a good cap-and-trade system, and you can do a bad carbon tax. The carbon tax is certainly simpler and more elegant, and frankly, if there is one thing governments do know how to do, it's tax. But the key things are what percentage of emissions are covered, how stringent it is—what is the price?—and how you spend the money.

Basically, if you're Greenpeace you say that it should cover all the emissions. I have a little chart in terms of BC versus Quebec versus Alberta—

Ms. Lisa M. Thompson: So no exemptions?

Mr. Keith Stewart: I would say, if you're going to do a cap-and-trade, to auction all credits rather than provide any for free. If you have a carbon tax, have it right across the economy. If you're going to provide relief to someone—I think you have to support low-income families. I think we need to invest in public transit and in green infrastructure. We need resources to do that. If you're going to provide relief to a particular industry because you think they're vulnerable, take the money and then give it back to them, so it's transparent, rather than creating loopholes. And, particularly, avoid weak offset systems, which can be a real problem.

I would say that I think the WCI system is pretty sophisticated. It's actually like a hybrid of a carbon tax and a cap-and-trade system, because it has a floor price, it has a limitation on the use of offsets—it has fairly high standards for those—it has a declining cap over time. I think they learned a lot from some of the mistakes that were made in Europe with the first round of cap-and-trade.

If I were the entire cabinet put together, I would put in an economy-wide carbon tax, but I also think that you can do a cap-and-trade system that does a good job.

Ms. Lisa M. Thompson: Just to support my colleague here: He does get crusty, just so you know.

Interjection.

Ms. Lisa M. Thompson: Oh no, earlier.

Mr. Keith Stewart: He has a very warm smile.

Ms. Lisa M. Thompson: Don't let it fool you.

The Chair (Mr. Grant Crack): The Chair is under fire today. Mr. Tabuns.

Mr. Peter Tabuns: It could be a lot worse, Chair.

Keith, the only question have for you is: Do you have any amendments that you would like to propose to the bill?

Mr. Keith Stewart: I do not.

Mr. Peter Tabuns: Then I don't have any other questions for you. Thanks for coming today.

Mr. Keith Stewart: Thank you.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Stewart, for coming before the committee. We appreciate it.

All right, so that would end the delegation or public hearing component for today. We have two on Wednesday. We shall commence sitting at 4 p.m. on Wednesday, which is October 7.

Having said that, I'm not that crusty. I wish everyone a good afternoon.

This meeting is adjourned.

The committee adjourned at 1536.

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Standing Committee on General Government

Ending Coal
for Cleaner Air Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015
sur l'abandon du charbon
pour un air plus propre



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STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 7 October 2015

Mercredi 7 octobre 2015

*The committee met at 1603 in committee room 2.*ENDING COAL
FOR CLEANER AIR ACT, 2015
LOI DE 2015
SUR L'ABANDON DU CHARBON
POUR UN AIR PLUS PROPRE

Consideration of the following bill:

Bill 9, An Act to amend the Environmental Protection Act to require the cessation of coal use to generate electricity at generation facilities / Projet de loi 9, Loi modifiant la Loi sur la protection de l'environnement pour exiger la cessation de l'utilisation du charbon pour produire de l'électricité dans les installations de production.

The Vice-Chair (Mr. Joe Dickson): Good afternoon, ladies and gentlemen. Welcome to the Standing Committee on General Government. I think everyone is familiar with the process. Each witness will receive up to five minutes for their presentation, followed by nine minutes, or three minutes each, for questions from the committee members.

Deadline for written submissions—I'm supposed to say this at the end; I'll do it right now—is 6 p.m., Thursday, October 8. Is that right? It's probably wrong. We'll change it at the end.

We're dealing with Bill 9, An Act to amend the Environmental Protection Act to require the cessation of coal use to generate electricity at generation facilities. I just took the first lady to come in the door on my left-hand side, other than government, so I will start with the opposition party, Ms. Thompson or Mr. McDonnell—after we do the speaker. Okay? That was a test.

ONTARIO PUBLIC HEALTH ASSOCIATION

The Vice-Chair (Mr. Joe Dickson): I wonder if you would welcome, from the Ontario Public Health Association, Pegeen Walsh, for her presentation. It's very nice to have you with us. Are you okay there?

Ms. Pegeen Walsh: Yes, thank you very much.

The Vice-Chair (Mr. Joe Dickson): Thank you very much.

Ms. Pegeen Walsh: Thank you for the opportunity to appear before your committee. My name is Pegeen

Walsh, and I'm the executive director of the Ontario Public Health Association.

Our non-profit, non-partisan association brings together those committed to improving people's health from the public and community health, academic, voluntary and private sectors. Many of our members, be they public health nurses, inspectors, nutritionists, doctors, planners, health promoters, epidemiologists or environmental health managers, are working on the front lines to protect and improve public health in their communities.

I am also the co-chair of EcoHealth Ontario, a collaborative of professionals in the fields of public health, medicine, education, planning and the environment. We are working together to better understand the relationships between the environment and health, and to increase the quality and diversity of urban and rural spaces in which we live.

The Ontario Public Health Association has been a champion for healthy public policy since its creation over 66 years ago. We are committed to strategies focusing on prevention, health protection and promotion. As such, we are supportive of the amendments outlined in Bill 9, as they represent an important step in reaching our goal of a healthier province. The major determinants of health transcend the health care system, including the environment in which Ontarians live. We therefore encourage government to consider health in all policies and take efforts to protect Ontarians.

OPHA, along with many other groups, advocated for the elimination of coal-fired plants for over a decade. In our 2002 report entitled *Beyond Coal: Power, Public Health, and the Environment*, we called on the Ontario government to phase out coal-fired power plants. We also recommended that Ontario establish a shared savings plan to reward utilities for investing in energy efficiency programs and encourage policies which reduce emissions from non-renewable fuel sources.

With the greater availability of sources of clean, renewable energy, Ontario no longer has the need for the burning of coal as a source of electricity. While the phasing out of coal may now seem like old news, I would like to review why these changes were so important, given that there are still jurisdictions that are burning coal. My remarks can also serve as a reminder that we can tackle challenging health and environmental issues when different sectors come together and cross-party support is achieved.

Coal burning has been proven as one of the major contributors to pollution and greenhouse gases. Aside from the immediate harms this brings to human health, it can also speed the rate of global warming and climate change, which has grave consequences. Back in 2002, we recognized the importance of reducing greenhouse gases. Since then, research and new evidence have underscored the urgency.

Coal continues to represent an enormous burden on the climate and air quality. The David Suzuki Foundation, who I gather you have heard from, talks about how an 150-megawatt coal-fired plant can produce more than a million tonnes of greenhouse gas emissions per year.

Burning coal produces large quantities of chemical matter which can cause breathing and respiratory problems, irritation, inflammation, damage to the lungs, and premature death. Air quality affects not only individuals with heart and breathing problems, but also pregnant women, the very young and the elderly. The chemicals released into the air can also result in acid rain, which can have drastic ecological impacts on lakes by changing the water's acidity and making them uninhabitable for fish, plants and animals. Coal-fired power is also a leading source of mercury emissions in North America, which are dangerous to people and wildlife.

Climate change resulting from the burning of coal has a strong impact on human health. As the climate changes, it brings tropical weather to higher latitudes; tropical diseases like West Nile virus and Lyme disease will follow. Ecosystem disruption will make the outbreak of water-borne diseases more likely as well. Studies also show that warmer temperatures drive up pollen counts, which can worsen symptoms of allergy sufferers.

Other health impacts expected from climate change include increases in heat waves, air pollution, and extreme weather events such as tornadoes and floods. Indirectly, health impacts expected include increases in drought, changes to water and food supplies, and increases in the range of vector-borne and infectious diseases.

With the phase-out of coal-fired power plants in Ontario, the province has seen significant reductions in emissions, and improvements in air quality and human health. By ensuring coal burning is banned as a source of electricity, we can help reduce health care costs, minimize future environment damage, and install a protective barrier to regressive energy policy.

The Ontario Clean Air Alliance has noted that the phasing-out of coal has shown that it is possible to take meaningful action on climate change and air quality, without stalling economic growth or lowering quality of life. As a society, we tend to be reactive rather than proactive. It costs less to prevent health and environmental problems than it does to treat them.

OPHA encourages the Legislature to pass Bill 9 as an insurance measure. We welcome the opportunity—

The Vice-Chair (Mr. Joe Dickson): Thirty seconds. You're fine. Keep going.

Ms. Pegeen Walsh: We welcome the opportunity to work with legislators on proactive initiatives that address

climate change, land use planning, green spaces, air quality, and industrial and vehicle emissions. We can't afford not to act when it comes to safeguarding the determinants of our health.

Thank you for the opportunity to convey the ideas and concerns of our association.

The Vice-Chair (Mr. Joe Dickson): Thank you very much. You did that with one second to spare.

I would like to now go to the opposition party, to the young lady there on my left.

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Ms. Lisa M. Thompson: Very good. Thank you very much, Chair, and thank you so much for coming in. I really appreciate your comments.

I have two questions for you. In your opening remarks, page 1, you mentioned that you recommended that "Ontario establish a shared savings plan to reward utilities for investing in energy efficiency programs and encourage policies which reduce emissions from non-renewable fuel sources."

What kind of response did you get from the government with regard to that recommendation?

Ms. Pegeen Walsh: This is something that we put together in 2002. At that time, it was very challenging to get action. Since then, with different governments that have come to the fore, there have been initiatives that are moving towards that goal. Our association would argue that there is still more that could be done.

Ms. Lisa M. Thompson: Expand on that. What more could be done?

Ms. Pegeen Walsh: Right now the government is working on a climate change strategy. We think that's going to be an important initiative. There is also a review being done on land use planning, so it's very important how we design our communities. They can also encourage use of public transit and active transportation.

Ms. Lisa M. Thompson: Okay. Thank you.

Changing gears here a little bit, you talk about climate change, and we all have to appreciate that we can do better. Your report points to climate change specifically bringing tropical weather, which leads to tropical diseases like West Nile and Lyme disease. Does your organization recognize that Lyme disease does exist in Ontario?

Ms. Pegeen Walsh: Yes. If you go to the website of Public Health Ontario, they've been doing some scenario and modelling planning on how, as the temperature warms, these diseases will be reaching further north in Ontario.

Ms. Lisa M. Thompson: Okay. Thank you for that. Why do you think people who contract Lyme disease have to go to the States for proper treatment? It's in the report.

Ms. Pegeen Walsh: I'm not aware of that; I can't speak to where people are getting treated.

Ms. Lisa M. Thompson: That's it.

Mr. Jim McDonnell: Just a quick question.

The Vice-Chair (Mr. Joe Dickson): Go ahead, sir.

Mr. Jim McDonell: Just some information—I know the bill is a little bit like apple pie. We no longer use coal. Actually, back in 2003, I think Elizabeth Witmer was the first—she was the PC minister who actually ordered the first closing of the first coal site. Now we're 100% off of coal as of sometime last year.

We are now using nuclear as our mainstay; I think it's 65%. Water power is the next largest at 20%. I think around 17% is natural gas, with renewables between 1% and 3%, depending on the day.

As we pick up on natural gas—

The Vice-Chair (Mr. Joe Dickson): Ten seconds.

Mr. Jim McDonell:—anything from your organization, a comment on the natural gas sources for electricity?

Ms. Pegeen Walsh: We recognize that energy policy is very challenging and we would like to see more emphasis on renewable sources. Obviously, that's better for health and it's better for the environment. We're making the point that as different parties came together to support the banning of coal, it can make a difference.

The Vice-Chair (Mr. Joe Dickson): Thank you very much. We appreciate that. And thank you for the question MPP McDonell.

The next speaker will be the distinguished gentleman from the third party.

Mr. Percy Hatfield: Why, thank you, Mr. Chair, and good afternoon to you, sir.

The Vice-Chair (Mr. Joe Dickson): It's hard to see down that far.

Mr. Percy Hatfield: It's okay.

Thank you for being here, Pegeen. I guess I agree with you somewhat when you said the phasing out of coal may now seem like old news, but what's next for the OPHA? What are your other objectives now? What are you going to tackle to help us lead to cleaner air and better overall health?

Ms. Pegeen Walsh: There was a terrific report that came out from the medical officers of health in the greater Toronto-Hamilton area about land use planning. There is a lot more we could be doing between planners and public health to design our cities to make them more healthy environments. There is more and more research that is showing that the way our cities are designed can affect disease rates and affect air quality and climate change. So that's our priority right now.

Mr. Percy Hatfield: Are you getting involved in all of the discussions around the greenbelt and what we have—

Ms. Pegeen Walsh: Yes. We put in a submission and appeared before the Crombie panel.

We are also calling for help in all policies legislation. We think it would be important that every time governments make the initiative—investments, programs, policies—that the health implications are looked at.

Mr. Percy Hatfield: Does your association's mandate end at the border or do you look beyond into Michigan, Ohio, Indiana and places where they still burn coal? That

air pollution—the prevailing winds just blow it over to my part of the province, at least down around Windsor?

Ms. Pegeen Walsh: We are concerned first and foremost about Ontarians, but we are part of a global community so we will be speaking out on things that affect Ontarians. That's why I wanted to come today, because, as much as we banned it here, we are being impacted by what's happening elsewhere, so governments need to be conscious and encourage changes among other jurisdictions.

Mr. Percy Hatfield: As part of that global outlook, does your association network with similar organizations in the northern American states on these issues?

Ms. Pegeen Walsh: Our main network tends to be with other provincial associations and the Canadian Public Health Association, and national organizations like the Canadian Association of Physicians for the Environment. So we're working through our Canadian networks to connect beyond Ontario borders.

Mr. Percy Hatfield: I understand you're working on active transportation as well. What are you doing in that regard?

Ms. Pegeen Walsh: Again, we're advocating for more investment in public health initiatives. For example, we've created an online tool where planners and public health can learn more about each other's discipline and find ways to work more closely together in city planning, whether it means changes to official plans or what have you.

Mr. Percy Hatfield: Did you ever take a stand on, say, the Union Pearson Express, which is burning diesel instead of being electrified? Do you ever take a stand on something like that?

Ms. Pegeen Walsh: We try to look at causes and go upstream as much as possible rather than focusing on issue specifics like that one.

Mr. Percy Hatfield: Thank you.

The Vice-Chair (Mr. Joe Dickson): Thank you very much, MPP Hatfield. I will now go to the government side. It is Ms. Wong.

Ms. Soo Wong: Thank you very much, Mr. Chair. Thank you, Ms. Walsh, for being here today. Let me put on the table that I'm familiar with this organization because I came from public health before I became a member of provincial Parliament. So I'm very familiar with your work.

On the last part of your page 2, in your conclusion: "OPHA encourages the Legislature to pass Bill 9 as an insurance measure." As you heard, even in this morning's debate, there is a presumption that this particular bill is redundant. Can you elaborate on why this bill is so important not just to the province of Ontario but across Canada and beyond?

Ms. Pegeen Walsh: On the one hand, we've identified this as an insurance measure. There's a loophole there and we want to make sure that is plugged so that there aren't any changes in the future and that somehow we might consider going back, because it's very important that we continue on this path of having clean energy sources.

Ms. Soo Wong: The other thing here is that I know that OPHA has been a leader when it comes to environmental health issues and public health policy. How do you see this particular legislation in terms of protecting air quality and protecting the health of all of Ontario and beyond? I hear about this legislation having a huge impact in the northern upper states—New York and elsewhere.

Ms. Pegeen Walsh: Again, we wanted to appear because it's important that, as we have some successes, we stop and evaluate and learn from that. As well, hopefully, that can support others in their efforts as they're trying to effect similar changes in their jurisdictions.

Ms. Soo Wong: As a co-chair of EcoHealth Ontario, do you collaborate with your colleagues in the United States? Is this issue about coal health also discussed in your committee?

Ms. Pegeen Walsh: Right now we're looking at Ontario. We feel there's much that can be done in terms of protecting green spaces, investing in more green spaces and better understanding the links between health and environment. So our focus has been mainly on Ontario, and our representatives are coming from that area. On the one hand, the David Suzuki Foundation is part of that, so we do have networks that go beyond Ontario as part of EcoHealth.

Ms. Soo Wong: Anyway, I want to be on record, Mr. Chair, that the great work of Ontario Public Health Association leading the discussion about health and the health of all Ontarians—I want to say thank you to your association as well as to the various groups that are attached to OPHA. Thank you for your good work.

Ms. Pegeen Walsh: Thank you.

The Vice-Chair (Mr. Joe Dickson): Further from the government?

Thank you very much, Ms. Walsh, on behalf of the Ontario Public Health Association.

CANADIAN NUCLEAR ASSOCIATION

The Vice-Chair (Mr. Joe Dickson): We now go to the second item on the agenda, and that is the Canadian Nuclear Association. We welcome Malcolm Bernard, director of communications, the Canadian Nuclear Association. Good to have you with us, sir.

Mr. Malcolm Bernard: Thank you for that kind introduction, sir. It's very much appreciated. I'm pinch-hitting today for Dr. John Barrett, our president, who fell ill overnight and is unable to attend. He sends his best regards.

Our association represents approximately 100 diverse member organizations involved in improving Canadians' lives through civilian nuclear technologies. Two of our members, OPG and Bruce Power, produced more than 62% of Ontario's electricity last year through clean, reliable and affordable nuclear generation.

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We are proud of the role that our members have played in helping Ontario rid itself of coal-fired genera-

tion. Reaching this milestone is widely recognized as the single greatest climate change achievement in North America. Nuclear technology played a key role in supporting Ontario policy, as it has since its earliest days.

Candu reactor technology was born and raised in this province, has its supply chain in this province, is an integral part of our engineering and manufacturing base, has been a successful technology export to six other countries, including China, Korea and India, and has been running safely for over 60 years now. That's why Ontario trusts it to provide the foundation of our electrical supply.

Ontario has a solid long-term energy plan, and the nuclear industry supports it and wants to help the province achieve its goals. LTEP sees nuclear as the backbone of the supply mix in Ontario. Refurbishment of 10 of the province's 18 generating units will assure that support for the province's electricity needs—are met for another 25 years or more. It will also be a fantastic economic driver for Ontario growth and jobs, given that nuclear's supply chain is right here in the province. Not only will refurbishment create an estimated 65,000 person years of work, but it will enable thousands more jobs at the nuclear power plants to continue for decades.

But we're here today to talk about the environment. The province has been making important strides towards cleaner air, and the results show in the reduction of the number of smog days in Toronto in recent years, with a payoff in the health of Ontarians and our neighbours in states and provinces alongside us.

The nuclear industry encourages this work, but we know that we are also shifting our focus now to a broader challenge, a global challenge, that of climate change. That means further reducing greenhouse gases. Unlike other pollutants that can be processed and absorbed to some extent, GHGs accumulate and persist in the atmosphere. When we put them there, they remain for centuries. This implies that, unless we accept the heating of the planet as inevitable, our net emissions must eventually go to zero, or even negative, later this century. That is a very different challenge from the traditional emission measures. It's not just about emitting less; it's about emitting zero.

That means three things for Ontario. It means electrifying activities that currently use fossil fuels. Cars are the most visible requirement, but industry must also decarbonize so that we can reach our GHG targets. Let's not deceive ourselves: We will need more electricity in the future, not less. It means also generating that electricity without GHGs. And it means having an electrical supply that is competitively priced and very reliable—or else people just won't make the switch away from fossil fuels. Expensive power would make that shift much harder.

What does this all mean? The bottom line: It means both more renewables and more nuclear; not one or the other, but both.

The exit from coal, which this legislation before you today would seal and protect, happened only because of the successful restart of the nuclear units at the Bruce and

Pickering nuclear power plants and the improved performance of Ontario's nuclear fleet. This added close to 4,000 megawatts of clean electricity to the grid. Those units affordably and reliably picked up the power load that coal was leaving behind—cleaning up the air that we breathe, saving millions in health care costs and lost output related to respiratory ailments and lifespans.

That is the reality which has given Ontario its remarkable success story in ending coal-generated electricity.

I'll just skip forward in the interests of time, Mr. Chair.

It's worth noting that Ontario grew this technology. It is an integral part of Ontario's engineering and manufacturing capability. Keeping nuclear at the centre of our energy mix means continued investment in Ontario science and technology; in Ontario engineering; in Ontario pipes, valves, pumps, electronics, robotics, quality control; and, finally, in durable, well-trained jobs for Ontarians. That means continued leadership for Ontario, not only in this province, but also in Canada and beyond.

Thank you. I'll take any of your questions.

The Vice-Chair (Mr. Joe Dickson): Thank you very much, Mr. Bernard. You have 11 seconds left, but we'll proceed to the third party representative, MPP Hatfield.

Mr. Percy Hatfield: Good afternoon, Malcolm. Thanks for being here.

Mr. Malcolm Bernard: Good afternoon, sir.

Mr. Percy Hatfield: You talked about the restart of the nuclear units at Bruce and Pickering. When did that happen?

Mr. Malcolm Bernard: Between 2000 and 2012, six units came back online: the entire A side at Bruce Power, so units 1, 2, 3 and 4 at Bruce; and also two units at Pickering, in 2003 and 2005.

Mr. Percy Hatfield: What was the cost of that?

Mr. Malcolm Bernard: I don't have the cost figures with me, sir. I'd be pleased to provide them as best as I can.

Mr. Percy Hatfield: Thank you. What would be the cost of the refurbishment of the province's 18 generating units?

Mr. Malcolm Bernard: I couldn't speak to refurbishing 18. We're contemplating 10; that's the proposed project.

It's worth noting that the units at Pickering would not be refurbished and two units at Bruce Power have already been refurbished. That leaves 10.

The current estimate is \$25 billion. The final amount will depend on the final project plans from both OPG and Bruce Power. I know that OPG is due to release its plan sometime this month, and Bruce Power is still in negotiations.

Mr. Percy Hatfield: I don't know if the ceilings in this room are high enough. When we normally talk about an estimated cost going into building or refurbishing nuclear, the end cost seems to skyrocket. We're talking \$25 billion at this point. How can we believe that that would be the final result?

Mr. Malcolm Bernard: Well, sir, I would invite you to consider the considerable efforts the industry is

making to ensure that this comes in on time and on budget.

Mr. Percy Hatfield: Yes, but you've done that in the past as well—on time, or tried to get on time and on budget. You haven't done it yet.

Mr. Malcolm Bernard: In fact, if you speak to Candu Energy, you'll notice that the installations over the past 15 years—new reactors were installed in China, Korea, Romania and Argentina, all of them on time and all on budget. This is the same company that is at the heart of restoring these reactors in Ontario.

As well, OPG has put in place a reactor mock-up at Darlington that precisely replicates the reactors that will be renovated. This enables crews to test their equipment and also their teams, and perfect their training before going in. You can imagine, Mr. Hatfield, that finding out halfway through a refurbishment project that you have the wrong customized tool would cause a fair amount of damage.

The industry is doing everything it can to make sure its crews and its equipment are ready so that we can proceed through refurbishment and deliver on time and on budget. We know the challenge that we face and we're determined to meet it.

Mr. Percy Hatfield: Have we learned anything from the recent past, say in Japan, about the dangers of nuclear power?

Mr. Malcolm Bernard: It's obvious that the accident in 2011 captured the world's attention and led some countries to re-evaluate their dependence on nuclear.

At the same time, I would point out that several countries have connected new reactors to the grid since. This year alone, six new reactors have come onto the electrical grid, five of them in China.

The Vice-Chair (Mr. Joe Dickson): That is your time, sir. Thank you very much.

I will then proceed to the government's speaker, MPP Thibeault.

Mr. Glenn Thibeault: Thank you for being here, Mr. Bernard. I hope you give me a little bit of indulgence because for seven years of my life, I was a radio broadcaster, and I had to listen to a Malcolm Bernard from BN news. Is this the same thing?

Mr. Malcolm Bernard: Same one, sir.

Mr. Glenn Thibeault: Okay. Well, anyway, it's very nice to meet you face to face, sir, because I listened to you for seven years and it was very nice listening to you this afternoon.

Mr. Malcolm Bernard: You are too kind, sir. Thank you.

Mr. Glenn Thibeault: I'm going to try to take this back to the bill. Part of Bill 9 is to ensure that we close the door forever on—making sure that we keep coal out. We heard of the health benefits, not only the economic benefits of this. I think it's important for us to reiterate that.

Last year, 90% of our grid-connected power in Ontario came from emission-free sources. I guess if we're

looking at where our emissions have gone—from 38 megatonnes to five. Natural gas is another tool that we use, but we only use it sparingly. Can you talk particularly to how much of our base comes from nuclear here in Ontario right now?

Mr. Malcolm Bernard: The province consumes roughly 160 terawatt hours of electricity per year. Last year nuclear provided, I believe, 93 terawatt hours. It comes out to about 62.9% of the grid-delivered electricity in the province, so three fifths of the power comes from the nuclear sector.

Mr. Glenn Thibeault: That three fifths: Obviously, all of it is emissions-free, correct?

Mr. Malcolm Bernard: When you say emissions-free, we need to be careful. We are greenhouse gas-free. We do not generate carbon dioxide.

Mr. Glenn Thibeault: Okay, so when we're talking in terms of air pollution right now, with which Bill 9 is—that's the kind of emissions that I'm making reference to.

Mr. Malcolm Bernard: Correct.

Mr. Glenn Thibeault: By 2025, 20,000 megawatts of renewable energy will be online, representing about half of Ontario's installed capacity. Where do you see nuclear playing a role in that, and how are we moving forward?

Mr. Malcolm Bernard: The essence of refurbishment is to ensure that those reactors are available to the province for at least another 25 or 30 years, so they would remain at the heart of the generating system.

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The government has said in its long-term energy plan, which we support and endorse thoroughly, that nuclear would remain at the centre of the mix. There is a current target of approximately 50% of generation, so we're exceeding that now. When we go through refurbishment, reactors will come off-line one at a time at Bruce Power and at OPG's Darlington complex. They will be renewed and will be brought back online. At the close of the project, we would expect nuclear would still be the heart of the province's generating capacity.

Mr. Glenn Thibeault: Great. Thank you, Chair.

The Vice-Chair (Mr. Joe Dickson): Thank you, sir. You have eight seconds left; your timing is impeccable.

Mr. Malcolm Bernard: Thank you, sir.

The Vice-Chair (Mr. Joe Dickson): I will then go to the opposition party. MPP McDonell, please.

Mr. Jim McDonell: Thank you for coming today. Actually, I had the good fortune to work at the Bruce plant when I was in university, just as they were turning up the first unit way back. So I know it's interesting. They've turned up, you said, 50 new reactors this year in the world?

Mr. Malcolm Bernard: No. There are currently under construction, according to the International Atomic Energy Agency, about 63 or 64 reactors. Eventually, those construction plans come to fruition. This year alone, according to the IAEA, six reactors have reached the point of grid connection and are now supplying electricity reliably and affordably.

Mr. Jim McDonell: Yes. It's interesting, because I think—

Mr. Malcolm Bernard: If I may add one point, I was counting these numbers just yesterday, anticipating that somebody might ask exactly that. Since Fukushima, 25 new reactors have been connected to the grid. So globally the trend is towards more nuclear, not less.

Mr. Jim McDonell: And I think the Candu technology is much different than the Japanese reactor, and, of course, they make them a lot safer.

Mr. Malcolm Bernard: Yes, it is safer than the reactor, from what we've seen from the evidence. We've not had any issues with Candu reactors here in Canada. But also notice the technology is entirely different and the regulatory system is also entirely different. We are governed in Canada by the Canadian Nuclear Safety Commission. They are very tough on the industry, justifiably so, and we welcome, frankly, their toughness. They keep us safe.

Mr. Jim McDonell: Yes. I know that we started this program of closing the coal plants back in 1993, I guess, as we talked. But it's interesting to note that since the Green Energy Act came about, there have been over 200 coal-fired stations opened in the world. So the world is going backwards as far as closing coal-fired plants.

Mr. Malcolm Bernard: Coal is very attractive to many of the developing nations because of its low cost per kilowatt hour. If you're prepared to ignore the environmental effects, then you would want to put coal in place.

If, however, you recognize that climate change is a serious and growing problem, then you would opt for a cleaner technology, and nuclear is one of those technologies that fill the bill. It provides stable baseload power while avoiding greenhouse gas emissions. Several countries are looking at introducing nuclear power for the first time, even places like Vietnam.

The Vice-Chair (Mr. Joe Dickson): Yes, MPP Thompson.

Ms. Lisa M. Thompson: Thank you very much, Chair.

Just so you know, I've had the occasion to tour your mock-ups at Darlington. Clearly, best practices are going to be embraced with the refurbishments. I believe MPP Wong has toured it as well. So I congratulate you on that.

Mr. Malcolm Bernard: I'll pass that along to our member, OPG. Thank you.

Ms. Lisa M. Thompson: Thank you. Now, going back to last day, the very first deputant talked of nuclear energy being unreliable. When I asked him to clarify that, he went back to historic data, if you will. I would appreciate your comments on that very quickly.

Mr. Malcolm Bernard: Well, 62.9% of all the electricity in the province last year: We're as reliable as that. You expect a light to turn on when you flick the switch. Nuclear enables that.

Ms. Lisa M. Thompson: Thank you very much.

The Vice-Chair (Mr. Joe Dickson): That's your time.

Thank you very much, members. Thank you very much to our guest speakers.

Mr. Mike Colle: Turn the lights off.

The Vice-Chair (Mr. Joe Dickson): Mr. Colle, thank you for all of your assistance and direction.

I would issue a reminder that, as per the order of the House dated June 2, 2015, the written submission dead-

line is today as of 6 p.m. Also, the deadline for filing amendments to Bill 9 is tomorrow, Thursday, October 8, at 12 noon.

I appreciate everyone's time and preparedness. Everyone did a wonderful job today. Thank you very much.

The committee adjourned at 1635.

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Mr. Glenn Thibeault (Sudbury L)

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Wednesday 21 October 2015

Journal des débats (Hansard)

Mercredi 21 octobre 2015

Standing Committee on General Government

Ending Coal
for Cleaner Air Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015
sur l'abandon du charbon
pour un air plus propre



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 21 October 2015

Mercredi 21 octobre 2015

*The committee met at 1600 in committee room 2.*ENDING COAL
FOR CLEANER AIR ACT, 2015
LOI DE 2015
SUR L'ABANDON DU CHARBON
POUR UN AIR PLUS PROPRE

Consideration of the following bill:

Bill 9, An Act to amend the Environmental Protection Act to require the cessation of coal use to generate electricity at generation facilities / Projet de loi 9, Loi modifiant la Loi sur la protection de l'environnement pour exiger la cessation de l'utilisation du charbon pour produire de l'électricité dans les installations de production.

The Chair (Mr. Grant Crack): Good afternoon, everyone. I'd like to call the meeting to order. This is the Standing Committee on General Government. Today we're here to consider clause-by-clause consideration of Bill 9, An Act to amend the Environmental Protection Act to require the cessation of coal use to generate electricity at generation facilities.

I'd like to welcome you all here this afternoon and congratulate you on all your good work that you've done to get us to this point on this important bill.

At this point, I would just like to remind members of the committee that we are on an order of the House. I'm not so sure that we will be required to comply at this point, because from what I understand, there is only one amendment that has come forward.

Are there any questions or introductory comments? Mr. Thibeault.

Mr. Glenn Thibeault: Really, no introductory comments. As we're moving forward, I'd just like to ask that when we get to each motion, if we could actually have a recorded vote on each clause, please and thank you.

The Chair (Mr. Grant Crack): Thank you, Mr. Thibeault. There has been a request for a recorded vote on all aspects of the bill.

Any further discussion? There being none, we shall get down to business.

Section 1 of the bill: There were no amendments. Shall section 1 carry?

Ayes

Berardinetti, Colle, Dickson, Hatfield, Hoggarth, McDonell, Pettapiece, Thibeault.

The Chair (Mr. Grant Crack): Those opposed? There being none, I declare section 1 carried.

We shall move to section 2. There are no amendments. Shall section 2 carry?

Ayes

Berardinetti, Colle, Dickson, Hatfield, Hoggarth, McDonell, Pettapiece, Thibeault.

The Chair (Mr. Grant Crack): Those opposed? There are none. I declare section 2 carried.

Section 3: There is one amendment. I shall ask a member of the official opposition to read the amendment into the record. Mr. McDonell?

Mr. Jim McDonell: I move that section 3 of the bill be struck out and the following substituted:

"Short title

"3. The short title of this act is the Elizabeth Witmer Act (Ending Coal for Cleaner Air), 2015."

The Chair (Mr. Grant Crack): Any further discussion on the motion? I saw Mr. Thibeault first. Mr. Thibeault?

Mr. Glenn Thibeault: I find it very interesting that we're having this conversation about an amendment to change the short title to talk about someone who did stuff in the past, but I think it's important if we look at some of the comments that were made by my friends opposite, some of their comments.

But first, I think, one of them that I'd like to emphasize is a few things that were talked about by Ms. Witmer, that she was only promising to convert—and this is from a news article, I should clarify, from—oh, jeez—back in 2001, that says Ms. Witmer is "only promising to convert the Lakeview generating station to natural gas because it's the oldest of the coal plants."

They were only promising to do one. It was this government that moved forward and closed the rest of the coal-burning plants. Mr. Jim Bradley, the Liberal environment critic at that time, said in this article that

there were bigger polluters and that more needed to be done.

I don't think that it's something we could support, changing the name, especially if you're looking at comments that were coming from the member from Sarnia-Lambton: "I ... have a coal-fired generating plant in my riding, and we want to see it remain open...."

The member from Haldimand-Norfolk-Brant: "The member for Halton mentioned that shutting down coal plants would be a huge mistake. I concur."

"I ask that the present government not overlook the fact that coal is both affordable and abundant."

It was this government, Mr. Chair, that saw the importance of making sure that all coal-fired plants—and the door is closed to ensure that no coal-burning plants come back to Ontario. On this side, I don't see renaming this short title as anything relevant to the bill.

The Chair (Mr. Grant Crack): I saw Mr. Hatfield with his hand up.

Mr. Percy Hatfield: Thank you, Chair, and good afternoon. I was wondering if it would be in order to ask the mover of the motion to explain the background or the purpose behind the motion, because I'm not familiar with why it's being moved.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Mr. McDonell.

Mr. Jim McDonell: Of course, as the record shows, the minister at the time, Elizabeth Witmer, kicked off the closing of the coal plants. There's no question you started off, I'm sure, with the worst case, which was Lakeview. That really was the realization under the former government, that these plants had to be closed.

We might have taken a different tack. We might have replaced the energy with clean energy versus this government, which shut down business, which allowed them to close it. We don't think that was the way Ontario wanted to go. Basically, we've lost our manufacturing sector in this province, which certainly allows the closing.

I know that they promised in 2003 to do it by 2007, and in 2007 they promised to do it by 2011, and it was only done last year. It wasn't an easy task to start; it wasn't a cheap one. There are better ways of doing it, I would think, and I think history shows that. But you can't change history. Elizabeth Witmer was the person who kicked this program off.

The Chair (Mr. Grant Crack): Any further discussion? Ms. Hoggarth.

Ms. Ann Hoggarth: Well, there's also the fact that while the PCs were in office, the use of dirty coal grew by 127%. In 2003, coal still accounted for 25% of generation.

Also, a former member of the opposition—and this is a quote: "Shutting down the coal-fired plants is going to be a huge mistake." That was in December 2003; it's from Hansard.

I do believe my colleague made it very clear that Ms. Witmer's idea was only to convert the Lakeview generating station. I don't think that she, by the looks of it, intended on doing any more. So I agree with my

colleagues that renaming this bill would not be the way to go.

The Chair (Mr. Grant Crack): Further discussion? Mr. Colle.

Mr. Mike Colle: Yes, I was here during those years and I can recall the members of the then Tory government day after day after day saying how wonderful coal was, that there was clean coal technology that was available, that we should spend hundreds of millions of dollars to bring in these coal scrubbers that supposedly were going to make coal clean. They opposed every initiative to close down those coal plants all across this province.

The only reference here is that there was a promise to look at closing Lakeview. It was our government that closed Lakeview down, closed the rest of them down and got rid of them.

I wouldn't mind if you paid respect to Elizabeth Witmer for that idea; she was a fine member. But it's kind of rich to hear this party that was in power that opposed every initiative to close the coal power plants. It was going to be the end of the economy. You couldn't replace them. There were going to be blackouts. Day after day after day they sat in this Legislature. Just look at the Hansard and see what they said, what their position was on coal closures.

That's why we need this act, because we know that many of the members of the official opposition still believe that you can have such a thing as this oxymoron "clean coal." They still believe in buying scrubbers and having coal plants. That's why we need this legislation: to shut the door forever, permanently, because many in this province on the Conservative side still believe in that. They talked about it day after day after day, and then all of sudden, to claim now they were the great leaders in this movement to close down our coal—well, this is rich by 10 and a half times. I can't stay quiet on this and cannot support it, as fine a member as Elizabeth Witmer was.

1610

The Chair (Mr. Grant Crack): Further discussion?

Mr. Randy Pettapiece: Yes. I find it rather interesting, if you want to go back in history, back a few years, and start talking about who said what. We have certainly gone through that recently with the Hydro One sale and what members of the Liberal caucus said at that time. We have quotes upon quotes from Hansard about opposing that sale of Hydro One. So I think it's a little bit rich that the government side would be bringing up these points.

We all do know that Elizabeth Witmer was the one who started this process, and I think it's only fitting that she should be recognized. If we had formed government at the time that you did, back in 2003, we would have continued on with this process to close these plants. To go back in history, quoting things that were said back then—I think you just have to look in the mirror and see

what your caucus was saying about the Hydro One sale. That's a totally ridiculous argument, in my opinion.

I am certainly in support of this change.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. Percy Hatfield: I think I'll have to vote against the motion, only because—and I have nothing against Elizabeth Witmer; I know her as a fine person—at no point did any member of the official opposition approach me or, as far as I know, my party to seek support for this bill, and I've had no opportunity to hold that discussion.

It's only a name change, but to me it's a substantive issue, because you're actually putting the name of a former member on the official document. I think we should do that at times when it's appropriate, but I haven't yet been convinced. As minister, she may have launched the process, but a good period of time followed the initial launch of closing down one station, for the term of office that she was there, and I haven't heard that other stations were closed after that.

For that simple matter—that we hadn't been approached or lobbied or in any way tried to be convinced that this was a good step—I'll have to vote against it.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call for the vote on PC amendment 1.

Ayes

McDonell, Pettapiece.

Nays

Berardinetti, Colle, Dickson, Hatfield, Hoggarth, Thibeault.

The Chair (Mr. Grant Crack): I declare PC motion number 1 defeated.

As a result of the defeat of PC motion number 1, there are no amendments to section 3.

Is there any discussion on section 3? There being none, shall section 3 carry?

Ayes

Berardinetti, Colle, Dickson, Hatfield, Hoggarth, Thibeault.

Nays

McDonell, Pettapiece.

The Chair (Mr. Grant Crack): I declare section 3 carried.

We shall move to the title of the bill. Any discussion on the title of the bill? There being none, shall the title of the bill carry?

Ayes

Berardinetti, Colle, Dickson, Hatfield, Hoggarth, Thibeault.

Nays

McDonell, Pettapiece.

The Chair (Mr. Grant Crack): I declare the title of the bill carried.

Shall Bill 9 carry?

Ayes

Berardinetti, Colle, Dickson, Hatfield, Hoggarth, McDonell, Pettapiece, Thibeault.

The Chair (Mr. Grant Crack): Those opposed? There being none, I declare Bill 9 carried.

To the members of the committee: Shall I report the bill, not amended, to the House?

Ayes

Berardinetti, Colle, Dickson, Hatfield, Hoggarth, McDonell, Pettapiece, Thibeault.

The Chair (Mr. Grant Crack): Those opposed? There being none, I shall report the bill to the House—carried.

That is it for clause-by-clause consideration, ladies and gentlemen. I would just like to inform members of the committee that prior to the House rising last spring, there was consideration of bills, particularly Bill 30, so I'm just asking that we have a meeting next week. Perhaps the subcommittee could meet, or we could get some type of direction on where we go in the future. I'm just throwing that out to members of the committee.

Any further discussion? There being none, we will wait to hear back from members of the committee or from an order from the House on how we proceed in the general government committee in the future.

Thank you very much, everyone, for your hard work this afternoon. I wish you a great evening. This meeting is adjourned.

The committee adjourned at 1616.

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Legislative Assembly of Ontario

First Session, 41st Parliament

Assemblée législative de l'Ontario

Première session, 41^e législature

Official Report of Debates (Hansard)

Monday 2 November 2015

Journal des débats (Hansard)

Lundi 2 novembre 2015

Standing Committee on General Government

Strengthening Consumer
Protection and Electricity
System Oversight Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015 pour renforcer
la protection des consommateurs
et la surveillance
du réseau d'électricité



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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 2 November 2015

Lundi 2 novembre 2015

*The committee met at 1400 in committee room 2.*STRENGTHENING CONSUMER
PROTECTION AND ELECTRICITY
SYSTEM OVERSIGHT ACT, 2015LOI DE 2015 POUR RENFORCER
LA PROTECTION DES CONSOMMATEURS
ET LA SURVEILLANCE
DU RÉSEAU D'ÉLECTRICITÉ

Consideration of the following bill:

Bill 112, An Act to amend the Energy Consumer Protection Act, 2010 and the Ontario Energy Board Act, 1998 / Projet de loi 112, Loi modifiant la Loi de 2010 sur la protection des consommateurs d'énergie et la Loi de 1998 sur la Commission de l'énergie de l'Ontario.

The Chair (Mr. Grant Crack): It being 2 o'clock, I'd like to call this meeting to order. This, of course, is the Standing Committee on General Government.

Today, we're here to hear from the public regarding Bill 112, An Act to amend the Energy Consumer Protection Act, 2010 and the Ontario Energy Board Act, 1998. I'd like to welcome all members of the committee and all the presenters here this afternoon.

We are conducting our business today on order of the House. I would just like to remind the members that we will hear from the presenters for five minutes each, followed by nine minutes of questioning, up to three minutes from each of the three parties.

SUMMITT ENERGY

The Chair (Mr. Grant Crack): We'll get down to business. At 2 p.m., which is now, we have, from Summitt Energy, Mr. Jeff Donnelly, who is director of regulatory affairs and compliance; and Mr. Noble Chummar, who is counsel. Gentlemen, I'd like to welcome you here this afternoon on behalf of my colleagues. You have five minutes.

Mr. Jeff Donnelly: Good afternoon, Chair. As mentioned, my name is Jeff Donnelly. I'm director of regulatory affairs and compliance for Summitt Energy. I would like to thank you on behalf of Summitt Energy for giving us this opportunity to speak before you this afternoon.

I just want to give you a bit of background on Summitt Energy to start with. Summitt Energy is a provider of

energy choice options for residential and commercial customers here in Ontario. Summitt Energy offers fully hedged electricity and natural gas products, including green energy components such as renewable energy certificates and carbon offsets.

In the province of Ontario, Summitt Energy provides tens of thousands of consumers a variety of energy plans, including fixed rate, flat rate, green and LED light bulb energy-savings options.

Summitt Energy employs over 200 people in six Ontario-based office locations. Summitt Energy's objectives are contributing to Ontario's economic success and improving consumer education, protection and consumer choice.

Summitt Energy supports the government's efforts to improve consumer protection. We would like to take this opportunity to discuss some of the proposed amendments in Bill 112 that will enhance consumer protection while ensuring consumer choice and keeping a viable retail energy market within Ontario.

Currently, Bill 112 is proposing to provide additional consumer protection for energy consumers by, amongst other things, eliminating door-to-door sales, extending cooling-off and verification requirements, and describing how sales representatives are remunerated.

The proposed elimination of residential door-to-door sales effectively eliminates the verification requirements and the need to extend the cooling-off period because a supplier will no longer be able to negotiate a contract with a consumer in person at the consumer's home.

The current exemptions under the Energy Consumer Protection Act do not require verification for contracts entered into over the Internet, through direct mail solicitation or as a result of the consumer contacting the supplier. Summitt Energy is of the position that these exemptions should remain in the legislation, as they are consistent with similar exemptions found in other retailer energy markets, notably the British Columbia Code of Conduct for Gas Marketers, which has currently been amended and will take effect on November 10.

In British Columbia, the retail market has experienced very similar residential consumer protection issues as we have in Ontario over recent years. They have proposed and do not require verification for agreements that are entered into over the Internet or as a result of a consumer's response to a direct mail or marketing campaign. In fact, article 33 of the Code of Conduct for Gas Marketers

has recently been amended to clarify that a verification is not required if the consumer executes the agreement with no contact by a salesperson through any means. They specifically provide examples of in person, telephone or online.

The British Columbia Utilities Commission has also further amended their code, which will come into effect this month, to allow electronic verification for those agreements that were entered into with the presence of a salesperson. It's an additional option for verification.

Consumers who have contacted a retail supplier have researched their options and have made a conscious decision to obtain their energy supply from the retail supplier. Consumers who choose to enter into an energy contract currently must acknowledge reading and receiving the price comparison and disclosure forms. To impose an additional requirement to require them to complete an additional telephone verification script, which currently has to happen several weeks after entering into a contract, is an unnecessary barrier for allowing consumer choice.

Currently in British Columbia, they have a 10-day cooling-off period for retail agreements that involve a salesperson. Similar provisions also apply in the Consumer Protection Act of Ontario; namely, recently in Ontario they've extended cooling-off provisions for door-to-door sales pertaining to hot water heater sales.

Alternatively, Summitt Energy's position is that if verification is required for all contracts, we do not believe that it would be the ministry's intent to provide a cooling-off period for a consumer-initiated contract, whether commercial or residential, that does not involve a salesperson.

If verification is required for all contracts, Summitt would like to propose that section 17 of the Energy Consumer Protection Act be amended to specifically address the timing of verifications for consumer-initiated and Internet transactions. By amending the application section of section 17 to reflect that a cooling-off provision is not required for consumer-initiated sales, you essentially eliminate the undue burden for a consumer to enter into a contract which they've entered into by self-initiation—having them wait for several weeks in order to effectuate such an agreement.

Bill 112 also proposes to define how a salesperson can be remunerated. Summitt Energy believes that the elimination of door-to-door sales effectively addresses any perceived issues of how residential sales representatives are paid because retail suppliers will no longer be permitted to enter into door-to-door contracts at a consumer's home.

The proposed provision, as it is worded, would also affect commercial sales, and Summitt does not believe that it is the ministry's intent to effectuate commercial sales in this way. Performance-based commercial sales compensation is widely accepted in other industries. It must be noted that commercial sales, for the most part, are scheduled, planned and, in most cases, consumer-initiated, involving intelligent, informed individuals.

The Chair (Mr. Grant Crack): Thank you very much. I apologize to have to cut you off. I gave you a little leeway as well there.

We'll start with the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much for coming today, Mr. Donnelly and Mr. Chummar. If I could sum it up maybe, am I correct in saying that three of the things you have concerns with are the verification, the confirmation, particularly if it's a contract or a purchase that was initiated by the consumer—

Mr. Jeff Donnelly: That's correct.

Mr. John Yakabuski: Did you also make comments with regard to the ability to—with remuneration by commission?

Mr. Jeff Donnelly: Yes, that's correct.

Mr. John Yakabuski: That is a concern?

Mr. Jeff Donnelly: Yes, specifically in relation to remuneration, it would be pertaining to commercial sales specifically. Currently, the way that section 9.3 is written, it applies to all consumer sales. I don't really think that the spirit of the drafting of the legislation is meant to affect how commercial sales are conducted, and should primarily be addressing the residential sales issues that we've had in the past.

Mr. John Yakabuski: Well, essentially, your belief is that if commissions are not allowed in your business, they shouldn't be allowed. Or if they are allowed in other businesses, they should be allowed in your business.

Mr. Jeff Donnelly: Yes, it's a widely acceptable practice for commission-based sales in commercial industries.

Mr. John Yakabuski: Right; we do it in various sectors. Also, I think you made comments about the 20-day cooling-off period, if I may call it that; that that should be either shortened—

Mr. Jeff Donnelly: Yes. Currently, right now, it's a 10-day cooling-off period. It's proposed to extend it to 20. If verifications are something that goes through with the bill, requiring verifications for any contracting with any consumer, it's a little bit unreasonable to require a 10-day, or even a 20-day cooling-off period, for that matter, for an agreement that has been self-initiated by a consumer over the Internet. Essentially, what would happen is—

Mr. John Yakabuski: If they want something and they—

Mr. Jeff Donnelly: They want it and they want it right away, and now you're going to make them wait 20 days, right?

Mr. John Yakabuski: If I order a pair of running shoes from SportChek on the Internet, I want them as quick as I can get them.

Mr. Jeff Donnelly: You want them as fast as you can get them.

Mr. John Yakabuski: Not that I'd be doing much running in them, though. But your point is that if the consumer has initiated it, it makes no good sense for them to have to wait 20 days for that contract to be fulfilled.

Mr. Jeff Donnelly: Right. The whole purpose of—for instance, if you look at the Consumer Protection Act with dealing with the water heaters, that extension was given because of the issue the industry was experiencing with high-pressure sales at the door. That's essentially eliminated if we eliminate residential door-to-door sales.

Mr. John Yakabuski: So as an energy retailer, if I can call you that, a reseller of energy as retailer, you're okay, then, with the elimination of door-to-door sales on energy contracts? You're prepared to accept that part of it, which is the biggest part affecting, I think, the consumer here? You're good with that?

1410

Mr. Noble Chummar: If I could speak on behalf of Summitt, and you'll be hearing from a number of other retailers today, I think that the politics behind this is the high-pressure door-to-door sales. I believe I can speak on behalf of Summitt that they have swallowed that pill and they have agreed with the position that the government has taken in this legislation, but by doing so, some of the provisions have become somewhat duplicative and unnecessary. Mr. Donnelly has addressed the three issues that are of concern to Summitt Energy, and I believe—

The Chair (Mr. Grant Crack): Okay. Thank you very much. We appreciate that, Mr. Yakabuski.

Mr. John Yakabuski: Holy—what did I get: 12 seconds?

The Chair (Mr. Grant Crack): Well, you got about three minutes and 30 seconds.

Mr. Tabuns.

Mr. Peter Tabuns: Gentlemen, thank you for being here this afternoon. The first question I have is, where does Summitt Energy get its energy from that it's reselling to ratepayers?

Mr. Jeff Donnelly: Well, we are involved in energy contracts with wholesalers, and we purchase and hedge our energy products to ensure that whatever we are supplying to consumers is protected. We only offer fixed-rate program pricing, so—

Mr. Peter Tabuns: I think you kind of missed my question. Who are you buying from?

Mr. Jeff Donnelly: Who are we buying from?

Mr. Peter Tabuns: Yes.

Mr. Jeff Donnelly: We are buying from a wholesaler.

Mr. Peter Tabuns: Which wholesalers?

Mr. Jeff Donnelly: We purchase our electricity and gas through BP.

Mr. Peter Tabuns: Through BP? I didn't know BP generated electricity here in Ontario. Do they? Or are you talking about Bruce Power?

Mr. Jeff Donnelly: No. To answer your question, all of our electricity is purchased through BP. It is not acquired through any of the generation or transmission facilities that are under contract with the provincial government.

Mr. Peter Tabuns: Since I understand that most generation in Ontario is connected to the IESO grid, which generators? Are you providing power from the

United States or Quebec, or are you providing it from Ontario?

Mr. Jeff Donnelly: You're probably asking the wrong person, because I only deal with the consumer protection and regulation issues for the company.

Mr. Peter Tabuns: Okay. The OEB says that people pay 15% to 65% more for power from retailers. What percentage over the local distribution company rates do your customers pay?

Mr. Jeff Donnelly: An educated guess as far as percentage they would pay over what the local distribution rates are? That's kind of a two-pronged question and a two-pronged response, because we currently can provide consumers with fixed-rate electricity contracts at rates as low as four cents a kilowatt hour. The problem is that our consumers who sign up with a retail energy provider are forced to pay the global adjustment, which is currently sitting at over nine cents a kilowatt hour, so if you add the nine and the four together, you've got 13 cents, even though that electricity is not being produced or provided through any of the government contracts to which the global adjustment is supposed to apply.

Mr. Peter Tabuns: You know, the global adjustment covers payments to just about every generator in Ontario. Are you telling me you are getting your power from out of province?

Mr. Jeff Donnelly: I couldn't answer that question.

Mr. Peter Tabuns: So you charge more than people would get if they paid money to their local distribution company. What's the value of the service that you offer?

Mr. Jeff Donnelly: I think it's not that we charge more. I think our fixed-rate products are competitive. Like I said, they are down to even four cents a kilowatt hour for a fixed-rate agreement. The problem is that consumers who sign with an electricity retailer are, in essence, forced to pay the global adjustment charge over and above, where if you're with a default service provider, the global adjustment is blended into your rate. So it's kind of a difficult question to answer. It's a situation that we're put into in our energy industry in this province, one which doesn't exist anywhere else in, you know, the United States, the northeastern seaboard.

The Chair (Mr. Grant Crack): Okay, thank you very much. We appreciate it. We will move to the government side; Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you for your presentation. I noticed in your brief that you said that Summitt Energy believes it is in the best interests of consumers, government and industry to work collaboratively. I believe you're right about that and I think that these hearings are part of that.

I'm a little concerned that no matter what part of the company you're with, you don't know where you purchase your power. That is a concern to me.

How effective do you think the Energy Consumer Protection Act has been at reducing the amount of consumer complaints about electricity retailers?

Mr. Jeff Donnelly: I believe the Energy Consumer Protection Act has been very efficient in dealing with

consumer issues that have happened in the past. Since its inception in 2011, there have been several new provisions put in place to help protect consumers, to ensure that they're doing their best to eliminate those unscrupulous sales reps. There are several compliance processes and regimes in the complaint process. If you look at the actual complaint numbers from the OEB report that was put out, they're very clear that they have been significantly reduced over the five-year period.

Ms. Ann Hoggarth: Okay, thank you. Apart from the measures that are being considered in this bill, what other steps is the electricity retail sector taking to improve transparency in their sales and marketing tactics?

Mr. Jeff Donnelly: Well, I think currently all of our marketing and sales material is reviewed and approved by the OEB, whether it be proactively or reactively through audits and inspections. We at Summitt—I can tell you that for the term that I've been there, just over two years, we have taken a proactive approach to ensure that we have as much transparency and accountability as possible to the consumer, that they fully understand what they're paying when they sign up with a retailer; that they will have to pay the global adjustment charge on top of their fixed-rate program; what their options are for getting out of a program; cancellation provisions and so on and so forth.

Ms. Ann Hoggarth: Thank you.

Mr. Jeff Donnelly: You're welcome.

The Chair (Mr. Grant Crack): Thank you very much. I really appreciate you two gentlemen coming before committee this afternoon. Thanks for your insight.

Mr. Jeff Donnelly: Thank you very much, Chair.

The Chair (Mr. Grant Crack): You're quite welcome.

MR. TOM ADAMS

The Chair (Mr. Grant Crack): Next we have Mr. Tom Adams. Welcome, Mr. Adams. You have five minutes.

Mr. Tom Adams: Thank you, Mr. Chairman, for the opportunity to comment on Bill 112. My name is Tom Adams. I'm an independent energy researcher. My focus is changes to the Ontario Energy Board.

Members, I hope you will agree that effective public utility regulation is essential to balance the interests of utility investors and consumers in the long-term public interest. Due process is a tried and true starting point for effective public utility regulation. There can be no due process without respect for the law.

What is the current state of due process at the Ontario Energy Board and how would Bill 112 affect due process in the future? The government fails to comply with the governance requirements of the existing Ontario Energy Board Act. Since July 2010, the Ontario Energy Board has violated section 4.1(6), section 4.2 and section 5 of its own legislation. These three sections are at the heart of the OEB's governance structure. They say that the OEB must have two vice-chairs; that these vice-chairs

must sit on the management committee, with the chair directing the board's internal affairs; and that the board must have a chief operating officer. The 2014 memorandum of understanding between the OEB and the government and also the OEB's bylaw number 1 both explicitly require this structure to be observed.

Why should we expect regulated entities to comply with the law when the regulator itself does not? How can the public interest be protected when the regulator flouts the law? Rather than remedy this situation, Bill 112 continues a trend we have seen, with both the Ontario Energy Board over almost 10 years and since 2012 at the National Energy Board, towards ever-greater ministerial-directed powers. Under Bill 112, the minister will have the authority to control consumer representation. The minister will be able to bypass OEB review for new transmission projects. Even more than is the case today, the underlying factors driving power rates will be guided by lobbyist intrigues at Queen's Park, rather than debated and decided in open hearings.

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Sections 71 and 73 of the existing legislation wisely prevent utilities from getting into unregulated businesses, recognizing the peril to ratepayers of commingling regulated and unregulated activities. The OEB worked for about 10 years to strengthen regulation by developing rules separating the regulated from the unregulated. Utilities have lobbied energetically since the legislation was put in place constraining that activity. Now, coincident with the sale of Hydro One, Bill 112 unwinds that hard-won separation.

In response to the public's concern over the sale of Hydro One, the government says, "Don't worry. The OEB will be the independent price-setter." This claim is captured in the title of the legislation: the Strengthening Consumer Protection and Electricity System Oversight Act. However, the bill's contents directly contradict its own title. The bill shifts powers from the regulator to the minister's office, gives the minister puppet strings over consumer representation, does nothing to correct the crippled regulatory governance that exists there, and weakens oversight by allowing regulated and unregulated businesses to commingle.

Bill 112, in its current form, may do far greater harm to the public interest than that described in the recent report of the Financial Accountability Officer.

The Chair (Mr. Grant Crack): Thank you very much, sir; we appreciate that. We shall move to the third party. Mr. Tabuns.

Mr. Peter Tabuns: Thank you very much, Mr. Adams, for being here today.

The section of this bill, 4.4.1, in which the board is given power to "establish one or more processes by which the interests of consumers may be represented in proceedings before the board": You have, I think, seen processes in other jurisdictions. What other processes are there?

Mr. Tom Adams: A process that's typical in several other jurisdictions—Newfoundland is one that I've

watched carefully in recent years—is to have a government-appointed ratepayer advocate. Newfoundland does have a long history of both very effective public utility regulation and a successful public ratepayer advocate position. It's a respected position.

The current advocate, however, is a guy by the name of Tom Johnson. He signed on to a recent capital program that's going on right now that is about to cause an over 50% increase—permanent increase, for the next 50 years—in the cost of power for customers in Newfoundland and Labrador. This highlights, in my mind, a risk of having all the eggs in one basket, having a monopoly, really, on consumer advocacy.

Consumer advocacy in Ontario has historically been a very decentralized activity: commercial consumers, residential, industrial, often with different perspectives within those customer groups. They're frequently represented in gas and electricity regulatory hearings and have been for a really long time, going back to the 1980s. Many of these representatives have elevated expertise that's difficult to obtain.

We have a successful structure in Ontario. It needs work. It always needs work. But simply empowering the minister to replace all the existing structure is, to me, a very risky undertaking.

Mr. Peter Tabuns: Okay. Thank you for that.

The other concern you expressed, regulations on allowing electrical utilities to engage in unregulated activities: Can you give me an example of jurisdictions where that's currently the case and what the impact is?

Mr. Tom Adams: We've had it in Ontario. The natural gas utilities, at one time, were dominant players in the water-heating market. What we saw in that instance, not with Union Gas but with what was then called Consumers Gas: They played a game with flowing through their tax credits, their capital cost allowance, which made the apparent cost of gas water heater rental appear very low. When the Ontario Energy Board started to investigate and tried to pull apart those businesses—regulated from unregulated—out of concern that revenues were going to the shareholders and costs were going to the ratepayer, they got into a protracted, multi-year litigation with the utility over how to unwind that commingling of the tax regimes of these enterprises.

The Chair (Mr. Grant Crack): Okay. Thank you very much. I appreciate that.

We'll move to the government side: Mr. Delaney.

Mr. Bob Delaney: Thank you, Chair.

Mr. Adams, are you still a researcher for the PC Party?

Mr. Tom Adams: No.

Mr. Bob Delaney: In 2014, were you one of the co-authors for the PC Party energy white paper?

Mr. Tom Adams: Yes.

Mr. Bob Delaney: Okay. Do you believe now, as you believed then, in the broadening of ownership of Hydro One and OPG?

Mr. Tom Adams: Yes, I do.

Mr. Bob Delaney: Thank you, Chair. Those are all the questions we have.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. We shall move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much. Thank you very much, Mr. Adams, for joining us today.

If my memory serves me correctly, I think it was the introduction of Bill 100 several years ago by the current government that—when they brought that bill in, it was to depoliticize the energy sector. Some of the things you've raised today with regard to ministerial directives and the government apparently taking a more active role in doing the job of what should be done by arm's-length organizations: Would you categorize our situation today as being depoliticized from where it was 10 years ago, or actually more politicized than it was then?

Mr. Tom Adams: It's more politicized and more prone to prompt changes of direction.

Mr. John Yakabuski: Just to clarify Mr. Delaney's question: Would I be correct in saying that you are contracted—or requested—to apply your experience and energy expertise on behalf of many different people and organizations from time to time?

Mr. Tom Adams: My door is always open.

Mr. John Yakabuski: So it would be not unusual for someone other than the PC Party to contact you looking for information on energy or some analysis or advice on what might be pertinent policies going forward?

Mr. Tom Adams: That's very common. It is part of my daily work.

Mr. John Yakabuski: There you go.

On the ratepayer advocate, the OEB was established, essentially, to be the ratepayer advocate back in the years of Davis, to be a watchdog on behalf of the consumers in the province of Ontario.

As we see it today, is that organization less able to do that? You're talking about it not following its own laws. Is that organization less able to act in that regard, to be the protector, so to speak, that it was intended to be when it was envisioned?

Mr. Tom Adams: I think if you look over the history of the energy board, its role was to be the honest broker between the interests of the regulated industries versus consumers. It wasn't there to just advocate for one side. That process, to work, requires the process to have a level of integrity and professionalism that at one time was very widely recognized—internationally recognized. It was a leading institution. I don't think that can be said now.

The Chair (Mr. Grant Crack): Okay. Thank you very much. I appreciate that. I believe that's it.

Thank you very much, Mr. Adams, for your insight and for coming before committee this afternoon.

WATAYNIKANEYAP POWER

The Chair (Mr. Grant Crack): Next we have, from Wataynikaneyap, Margaret Kenequanash, who is the chair, and an adviser, Mr. Ron Stewart. We welcome you both.

Again, welcome, and you have five minutes.

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Ms. Margaret Kenequanash: Good afternoon. My name is Margaret Kenequanash. I'm chair of Wataynikaneyap Power. I'm an indigenous woman from North Caribou. I'm here with Ron Stewart, who's our special adviser to our project.

First, I want to thank all the members of the committee for giving me the opportunity to speak to you today with regard to Bill 112. Specifically, we are here to speak to section 18 of the bill, which proposes to amend the Ontario Energy Board Act with a new section 96.1, which assigns responsibility regarding electricity transmission lines to the Lieutenant Governor in Council.

The lack of suitable power supply in remote First Nation communities is a crisis. In spring 2015, there were 10 remote First Nation communities in Ontario on connection restrictions as a result of diesel generators approaching capacity, and we also have six independent power authorities. With this restriction, a community cannot connect new homes, develop new community infrastructure or pursue economic development opportunities. As a result, the power supply crisis is exacerbating already poor living conditions and compromising the basic need for shelter, water and food for community members, particularly the elderly and children.

There are some diesel generation projects that are out there, but they are extremely expensive and it takes years of planning and approvals. Continued use of diesel generation to power First Nation communities is financially unsustainable, environmentally risky and inadequate to meet community needs.

In the face of this crisis, our communities mobilized and, in 2008, we created Wataynikaneyap Power, a ground-up built initiative with mandates and supports from our communities and leadership. Wataynikaneyap in our language means "Line that brings light," and it was named by our elders. The Wataynikaneyap project was formed by 20 First Nations in partnership with industry and government, and it is unprecedented.

Speaking as an indigenous person, the support and mandate for this project is premised on ownership. The overall vision for our indigenous peoples is to own major infrastructure such as Wataynikaneyap that will be a catalyst to control our destiny and change the landscape of how we do business in the future. No major development will take place without the meaningful involvement and consent of our people.

Our company intends to develop, own and operate new transmission facilities that will connect remote First Nation communities to the grid. The company's goal is to provide reliable and accessible power to residents, businesses and industry in the region, realizing opportunities for First Nations.

Ontario's Far North has tremendous natural resource potential. The availability of an adequate power supply would also support renewable generation, development and training, and mining. We have been working with our partners, FortisOntario and RES Canada, to develop the project, and 20 First Nations will remain majority owners and become 100% owners over time.

Wataynikaneyap is one project in two phases. Phase 1 is a new 300-kilometre, 230 kV transmission line to Pickle Lake. The existing line is more than 70 years old and is prone to frequent lasting power outages.

Mr. John Yakabuski: Seventy?

Ms. Margaret Kenequanash: The existing line is 70 years old—the E1C line.

This has an impact on the production rates of the Musselwhite mine, which is in partnership with First Nations around that area.

Phase 2 is a 1,500-kilometre line of 115 kV and lower-voltage transmission line to connect 16 First Nations north of Pickle Lake and Red Lake.

According to PricewaterhouseCoopers, building and operating transmission in these communities is expected to save \$1 billion compared to continued diesel generation. In addition, the Wataynikaneyap transmission project is estimated to create 769 to 1,000 jobs during construction and over \$900 million in social value. The connection of our remote communities has been identified as a priority in Ontario's Long-Term Energy Plan. Strongly supported by the fact that this project would, in turn, lead to the connection of remote communities, our communities and partnerships expect to achieve that. It only makes sense that our communities wish to own, control and benefit from the development in their homelands. This project will also share in the benefits with the rest of Ontario and Canada.

Clearly, this is a major undertaking, but one with immeasurable benefits. There is no logical reason why our communities here in Ontario should be relying on diesel for our electricity. We want to grow; we want to prosper. The project would allow this to happen.

For this reason, we support amending the Ontario Energy Board Act with the addition of section 96.1, which would allow the Lieutenant Governor in Council to declare through an order in council that the construction, expansion or reinforcement of certain transmission lines is needed as a priority project.

The Chair (Mr. Grant Crack): Could you wrap up quickly, please?

Ms. Margaret Kenequanash: Pending the passage of Bill 112, Wataynikaneyap Power would submit that both phases of the project be priority projects for the government of Ontario.

In closing, I want to thank you for this opportunity to present to the committee and provide our voice and support for this bill's passage. We are happy to answer any questions, if you have any.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Kenequanash.

We'll move over to the government side: Ms. Kiwala.

Ms. Sophie Kiwala: Thank you so much, Margaret, for your wonderful presentation. Well done; I'm not sure if you've done this before, but great job.

Ms. Margaret Kenequanash: Thank you.

Ms. Sophie Kiwala: Thank you as well, Ron, for being here today.

It's very, very exciting for me personally to see you here and to welcome you to the committee. I think it's absolutely critical that we engage with our First Nations communities. We continue to do that more and more, so it's very exciting.

I just want to highlight that the proposed legislation will enable the government to identify priority transmission projects to ensure that critical transmission infrastructure is built in a timely manner. This seems like it's a very good fit with your co-operative.

My question for you is: How will the ability of the government to identify priority transmission projects help achieve important policy objectives like the grid connection of remote First Nations communities?

Mr. Ron Stewart: Mr. Chair, through you, it'll be of considerable assistance because this is a policy to get off the diesel and get connected to the grid. It's not all traditional reinforcement of the grid, or an extension to the grid; it really is a policy matter to assist the First Nations communities to get on the grid. So I think this particular kind of legislation is really helpful in that regard in terms of implementing such policy.

Ms. Sophie Kiwala: Very good.

What benefits will First Nations communities in Ontario's northwest see as a result of being connected to the electricity grid? I know that there are many, but, just for the purpose of the committee, I'd appreciate your response to that.

Ms. Margaret Kenequanash: I think, currently, our situation is that our communities are swapping houses to connect energy. So, as a result of that, there is stunted growth in the community. The population still grows, but in terms of pursuing any economic business opportunities, infrastructure development or community development, that's pretty much at a standstill. When the community has access to reliable energy, then there is going to be expansion for that.

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But not only that: As a result of this project, we are currently preparing our communities to be project-ready, to be able to do and carry on this \$1.35-billion project that we want to pursue. As a result of that, we're looking at what sort of existing businesses we have, what sort of economic development opportunities we are going to be able to do—not only us, but in partnership with other industry and government, continuing in that role that we play today, and of course creating employment and training opportunities, and hopefully expansion of proper infrastructure in the community so that our communities can receive the basic commodities of life that everyone enjoys in Ontario and Canada.

The Chair (Mr. Grant Crack): Okay. Thank you very much. We appreciate that. We'll move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Ms. Kenequanash, for joining us today. I see your 20 First Nation partners here. Are all of them currently serviced by diesel generators?

Ms. Margaret Kenequanash: Of the 20 First Nations in partnership, four of those are already on grid connection.

Mr. John Yakabuski: Okay, four on grid connection.

Ms. Margaret Kenequanash: Yes, and 16 of those are on remote, which is diesel.

Mr. John Yakabuski: Right.

Ms. Margaret Kenequanash: And out of the 16, there are 10 HORCI communities and six IPAs.

Mr. John Yakabuski: Okay, thank you.

Section 96.1 would give the Lieutenant Governor in Council, essentially the cabinet, the authority to identify priority projects, but it doesn't compel them as to what projects would be priority. It would still be up to yourselves and other advocates to ensure that the government has seen this as a priority. So I see this as part of your visit today: bringing to the attention of some of us who wouldn't otherwise be aware necessarily the extent of your concerns; also, in bringing forward this issue to us, how extensive it is and that it is something that you would like to see the government begin to act on as soon as possible.

So in the winter months, or any time, how do these First Nations, the most remote ones—I have to look that up again and get my glasses on. But let's say way up there in Bear Skin Lake First Nation, how would diesel fuel get to them?

Ms. Margaret Kenequanash: Well, depending on climate change, because that's starting to have impacts now, usually it will be transported by winter road. The majority of that winter road will be on ice or lake. So that creates a potential high risk for environmental. Our community has tried to take advantage of the winter road because it's less costly, but if the climate change impacts continue, then there's a short window of opportunity for them to transport the diesel fuel by road, so they have to fly it in, which doubles the cost, usually.

Mr. John Yakabuski: So if the supply is exhausted before the winter road is—well, did you have enough fuel to get through this season? We're not there yet—

Ms. Margaret Kenequanash: Normally, the communities would try to provide enough fuel to last them a season, for the winter road season and over the summer, until the next winter road.

Mr. John Yakabuski: Right.

Ms. Margaret Kenequanash: At times, our communities run out, so they have to fly in fuel.

Mr. John Yakabuski: Then it has to be flown in at a considerable cost.

Ms. Margaret Kenequanash: Yes.

Mr. John Yakabuski: Thank you very much for bringing these concerns to the committee. I appreciate that.

Ms. Margaret Kenequanash: You're welcome.

Mr. Grant Crack: Thank you. We shall move to Mr. Tabuns.

Mr. Peter Tabuns: Ms. Kenequanash, thank you very much for your presentation today. Also, good to see you again.

I've heard about this project in the past. Can you give me some sense of the history of this proposed extension and why it has not been done in the past?

Ms. Margaret Kenequanash: Well, I could start from 1905, when our treaties were signed, but I won't go that far.

Mr. Peter Tabuns: Okay, so it's long-standing.

Ms. Margaret Kenequanash: Basically, when it comes to energy, I know that in the early 1990s, mid-1990s, there was a number of communities that formed a group called G10. They identified some regional issues that they wanted to partner in and pursue and work on. One of the issues was energy. Unfortunately, in 1995 or so, it fell through; it didn't work out.

In 2007-08, Goldcorp was in partnership with other First Nations in the surrounding area and brought up the issue that they wanted to expand their mine life and therefore needed additional energy because of the 70-year-old line in the EIC that was causing them problems. What happened was that the chiefs in the partnership arrangement said, "We will not put it under the auspices of this IBA. We will work on it separately."

From there, the engagement started amongst the 10 First Nations who were originally on there, and then it ended up being 13. It has been eight years on the go.

The partnership discussions amongst First Nations took some years to form. Then, of course, we moved it up to bringing the project on the map with the provincial government and also with the federal government, and ongoing work with industry and then recently formed a partnership arrangement with Fortis-RES, who is going to be our partner in developing this project.

Mr. Peter Tabuns: So it won't be Hydro One that's developing this transmission project?

Ms. Margaret Kenequanash: Not specifically Hydro One. I understand there's an arrangement that they're having discussions with the Chiefs of Ontario in terms of the purchase of a share. That's all I know about that; don't ask me any questions about that. But I do know that there was a decision by the chiefs that they would pursue that option.

With the partnership that we've arranged, we went through a competitive process with various transmitters in Ontario. We picked the best partner that we thought would promote the vision of our people, which is ownership, because the premise of this project is ownership.

Mr. Peter Tabuns: Have the partners gone through a regulatory process for review of the project to date?

Ms. Margaret Kenequanash: We have done a regulatory review through our legal counsel. In terms of our partners, we're going through the process of doing the transmission licence applications and also reviewing the leave-to-construct application—all those things that the regulatory system has.

This has been a huge learning curve for our First Nations, because it's a very complex issue. The energy sector in Ontario is very complex. Trying to understand it and, at the same time, informing the communities and educating them on the process, and vice versa—edu-

cating the government and the regulatory system on our First Nations needs—is also a challenge at times.

Mr. Peter Tabuns: And the—

The Chair (Mr. Grant Crack): Thank you very much. I wish I could, but I can't.

Thank you, Ms. Kenequanash and Mr. Stewart, for coming before committee this afternoon. Much appreciated.

Ms. Margaret Kenequanash: Thank you.

Mr. Ron Stewart: Thank you.

ELECTRICITY DISTRIBUTORS ASSOCIATION

The Chair (Mr. Grant Crack): From the Electricity Distributors Association, we have Mr. Raymond Tracey, who is the chair. Also, Teresa Sarkesian, I believe, is the vice-president. We welcome you both. You have five minutes.

Mr. Raymond Tracey: Good afternoon, Chair and members of the standing committee. My name is Raymond Tracey. I am the chair of the Electricity Distributors Association, the EDA. With me to my right is Teresa Sarkesian, our VP of policy and government affairs.

The EDA is the voice of Ontario's locally owned electrical distributors, or LDCs, which deliver power to 75% of Ontario's electricity consumers. I'm pleased to have the opportunity, on behalf of the association, to discuss Bill 112, an important piece of legislation for our industry and our consumers.

To begin, I would like to commend the effort being taken to protect consumers' rights under this bill. The proposed changes to the Energy Consumer Protection Act which ban retailer contracts at the door are a step in the right direction. The stricter parameters around contract verification, penalties and the cooling-off period are also very prudent. However, EDA recommends that a review be scheduled after three years to adequately assess retailer compliance to determine if further restrictions are necessary.

I also want to share with you how this important piece of legislation can push our industry forward and benefit the communities we serve.

The proposed amendments to section 71 and the repeal of section 73 of the Ontario Energy Board Act represent significant opportunities for trusted, well-managed local distributors and their affiliates to offer additional high-quality services to their customers. Section 71, in particular, enables LDCs to go beyond electricity distribution, something the EDA had long advocated for. We know that expanding an LDC's scope of business will make the whole system more efficient by using existing assets more intelligently through the introduction of more innovative solutions. It also means that shareholders will have more control and flexibility over the future of local utilities.

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To realize this potential, the EDA encourages the committee to ensure that the legislation provides for a

transparent and reasonable approval process at the Ontario Energy Board—the OEB—to evaluate new scope opportunities. The OEB plays a critical role in our system, and we acknowledge the importance of regulating competitive services within utilities. However, the legislation should aim to make the expansion of appropriate LDC scope plans a routine process when the expansion is based on well-developed business plans. If the legislation passes—and we hope it does—we encourage the OEB to work with LDCs on a reasonable and achievable process for these approvals.

Regarding section 73 of the OEB Act, the EDA offers its full support to government on its decision to repeal it. Removing restrictions on the type of business activities LDC affiliates undertake puts them on a level playing field with their private counterparts, which also creates efficiencies. The EDA does not support any further changes to Bill 112 that would seek to limit or curtail any future business opportunities and services offered by the affiliate businesses.

The EDA also notes that in December 2012 the OEB, in a precedent-setting case involving an affiliate of Enersource Hydro Mississauga, confirmed that LDC affiliates have the right to compete and conduct businesses outside the licensed territory of a distributor. As proposed in Bill 112, the EDA believes that there should be no role for the regulator in non-regulated affiliates of LDCs beyond ensuring the separation of the business units themselves.

In our consideration of other provisions of Bill 112, the EDA would like to provide the following two comments. Regarding the proposal enabling the OEB to appoint a supervisor to oversee management of an LDC if it determines the utility has failed in key obligations, the EDA recommends establishing and providing a timeline and process for such an action to the industry and a directive to the OEB.

Secondly, on the proposed amendments concerning the obligations of directors and senior officers of utilities, the EDA reminds the committee members that LDCs and their boards are already under the purview of Ontario's Business Corporations Act and other acts. Therefore, we suggest that these proposed changes align with the requirements under relevant legislation.

In closing, we thank you for the opportunity to provide comments on Bill 112. We are encouraged about these positive steps that will assist ratepayers and will help LDCs develop new business models to improve their service and create efficiencies, for the benefit of all Ontarians.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Tracey. We appreciate your comments. We shall start with, from the NDP, Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Chair.

Mr. Tracey, Ms. Sarkesian, thank you for being here today. The first question I have is around the electricity retailers. My understanding is that you've done a study in the past showing how much extra Ontarians were paying because they were availing themselves of the services of

energy retailers. How much money are our ratepayers paying that they shouldn't be paying?

Mr. Raymond Tracey: I think our information, which Dr. Dewees, as well as others—we believe that it's in the area of \$130 million on an aggregate basis. I think our data, along with other data that's been given in the industry about this, is somewhat supporting each other. So it's not just coming from our information, but it's also coming from other stakeholders in the industry.

Mr. Peter Tabuns: Okay; \$130 million matters.

Mr. Raymond Tracey: Put it this way: Could we build a lot of infrastructure for \$130 million?

Mr. Peter Tabuns: Yes, I think you can.

The provision of power by these companies—what actual value does it provide to ratepayers?

Mr. Raymond Tracey: Just for clarity, what do you mean by “the provision of power”?

Mr. Peter Tabuns: Sorry. When energy retailers are selling electricity to ratepayers, what value do they provide for that extra \$130 million a year that Ontarians are paying on their electricity rates?

Mr. Raymond Tracey: I don't know if I'm in a position to answer that question, because I'm not a retailer and I don't speak for what their actual offering is. All I can say is that Ontario has a very complex wholesale and retail marketplace. I think Ontarians struggle each day trying to figure out exactly what an electricity cost is, and anything we do to complicate that is probably not in their best interests.

Mr. Peter Tabuns: Okay. Thank you for that. In terms of section 71 and the ability of municipal electrical utilities to engage in other businesses, can you tell me what kind of businesses people are discussing getting involved in?

Mr. Raymond Tracey: I think there's a range of businesses that are out there as opportunities. There are actually quite a few success stories right here in Ontario through affiliates, and it's not just looking at traditional types of services. Our industry, like every industry, is faced with innovation opportunities, different technologies and different solutions.

Given what we have in front of us in Ontario, which is a fairly complex market, as well as higher energy prices, consumers are looking for other options in terms of services and products they can utilize to help manage their electricity bill. I think that affiliates of LDCs are in a very strong position to assist customers in managing that.

Mr. Peter Tabuns: We're talking about energy-related activities rather than business activities outside of energy; is that correct?

Mr. Raymond Tracey: Up to this point, I think any affiliates' interests would be related to energy- or utility-type services. That's currently where we sit today in terms of our authorization. The expansion of scope on the affiliate side is going to broaden that, but you're going to see most likely participants stay in what they know well. It's typically services around and about the utility industry.

Mr. Peter Tabuns: And the regulation as it currently exists: What problems have utilities encountered dealing with this restriction on their ability to engage in a variety of business activities?

Mr. Raymond Tracey: As we look at the evolution of electricity, you're looking at microgrids; you're looking at beta generation; you're looking at distributed generation and distributed storage; and you're looking at intelligent vehicles and smart energy stations. All these things create a different world for what consumers are looking for, and I think that LDCs, whether within their LDCs as an expansion of current scope or through affiliates, are clearly looked at as proven providers of good infrastructure and reliable service and reliability. So, as a result, I think consumers will probably look to them for some of these other services if these opportunities are presented.

The Chair (Mr. Grant Crack): Thank you very much. Appreciate it.

Mr. Peter Tabuns: Thank you.

The Chair (Mr. Grant Crack): We'll move to the government: Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you for your presentation. The legislation as it currently stands restricts the business activities of affiliates of municipally owned local distribution companies but does not include any such restrictions on the business activities of non-municipally owned LDCs. Do you not believe that allowing municipally owned LDCs to be on the same footing as privately owned LDCs makes sense in terms of allowing for equal treatment of all LDCs, regardless of who they're owned by?

Mr. Raymond Tracey: I think we clearly support that position. At the end of the day, we all have shareholders. All shareholders have equal rights, being an owner and as a business—running our businesses, it's our job to run them most effectively and efficiently. By having the same playing field as any other business, regardless of their owner, allows us to have a level playing field and lets the market determine who's the best provider of those services.

Ms. Ann Hoggarth: Great. Just one additional question: Are there any additional amendments to the Energy Consumer Protection Act that you would think would help to further protect Ontario consumers?

Mr. Raymond Tracey: I think you're making some very prudent steps in the right direction. Ontario has a very complex marketplace of wholesale and retail electricity. I think we have a complex structure in how we want to structure time-of-use rates and many other things that I think will bring benefit, but we have to reduce confusion in the marketplace. So any steps you do to make sure there's less confusion for the end consumer, whether they're looking at a retailer contract or at supply from their LDC, I think is important. I believe it's prudent because, up to this point, I think consumers have been confused and, as a result, there have been a lot of concerns. I think you're trying to address some of those concerns as part of this legislation.

Ms. Ann Hoggarth: Thank you, Mr. Tracey.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Teresa and Mr. Tracey—Raymond—for joining us today.

Mr. Raymond Tracey: Thank you.

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Mr. John Yakabuski: The first part of your proposal or your presentation today deals with section 71, and it's pretty self-explanatory about wanting to expand the scope of services offered by LDCs. At one time, were you able to offer some of these other services?

Mr. Raymond Tracey: When we were restructured back in 1998, we were multi-utility providers—water, hydro. Obviously, we were narrowed down to specifically electrical distribution. Since that time, this would be the first real, I think, change in the market space where we would look outside of just maintaining distribution assets for our customers.

Mr. John Yakabuski: Right. So you would be looking at the rental or whatever, leasing rental of water heaters, stuff like that, energy-efficient products, thermostats, these kinds of—

Mr. Raymond Tracey: I think many of those type of services will probably remain in affiliates. We should see holding companies whose sister company is an LDC, not really of the LDC in terms of a structure. So I think you can see those remain in traditional affiliate relationships, which we have sufficient regulation under. I think the opportunity we might see of expansion of scope within the LDC infrastructure is smarter intelligence within the grid itself. So example: In order to connect a high penetration of electrical vehicles in an area, it may be more beneficial for the LDC to be the provider of the charging stations so we can charge them—

Mr. John Yakabuski: Like a Plug'n Drive or something like that.

Mr. Raymond Tracey: Yes—and make them efficient so we can get as much penetration as possible and optimize the utilization of the grid.

Mr. John Yakabuski: Okay. Between yourself and your affiliates, would it be fair to say that if you're granted all these things, all the proposed amendments, we may have no need for energy retailers here in Ontario?

Mr. Raymond Tracey: Well—

Mr. John Yakabuski: Because we're not going to have door-to-door sale of contracts. That's going to be gone.

Mr. Raymond Tracey: Again, I see most of the LDC services that we talk about, whether it be scope or affiliates—not really any LDC or affiliate plays in the space of retailers. Maybe at one time, but I think all of those have been removed. I think the type of services we'll be involved with are more related to the infrastructure, smart utilization of the grid, and enablement of new technology so that we can have better penetration and better optimization.

When you speak of retailers, you're talking about buy-sell agreements, and that will be up to whoever wants to participate in that, but I don't see that being the uptake of much of our industry, that's for sure.

Mr. John Yakabuski: No, I don't expect you're going to be doing it because you do business directly. You are the distributor.

Mr. Raymond Tracey: What I don't see is doing it through affiliates or otherwise. That's not our uptake. A different type of players want to be in that business.

The Chair (Mr. Grant Crack): Thank you very much. We really appreciate you both coming before committee this afternoon.

Mr. Raymond Tracey: Awesome; thank you.

COMMUNITY ENTERPRISE NETWORK INC.

The Chair (Mr. Grant Crack): Coming up next, from Community Enterprise Network Incorporated, is Mr. Jeff Mole, president. Welcome, Mr. Mole.

Mr. Jeff Mole: Thank you, Mr. Chair.

The Chair (Mr. Grant Crack): I haven't seen you for a while—a couple of weeks.

Mr. Jeff Mole: It hasn't been that long.

The Chair (Mr. Grant Crack): Welcome. You have five minutes, sir.

Mr. Jeff Mole: Good afternoon. My name is Jeff Mole, president of Community Enterprise Network Inc. Our mission is to help build the capacity to develop community enterprise in Ontario and give Ontario communities the tools they need to participate in public sector procurement in a way that profits will be reinvested in Ontario. We are a not-for-profit, in the business of helping communities.

I'm here today to speak in support of Bill 112. However, we would ask the committee to consider amending the bill to achieve greater value and protection for consumers. We believe the bill should amend the Broader Public Sector Accountability Act to help facilitate the mobilization of communities and financial resources for the developing of the capacity of community enterprise in the delivery and generation of electricity.

In a news release on February 19, 2015, the Premier indicated she wanted to make Ontario a leading jurisdiction in North America for social enterprise. A community enterprise is a not-for-profit corporation that meets a need and provides benefits. A community enterprise provides an alternative to privatization of public services. This alternative offers greater value for taxpayers and ratepayers by reinvesting profits in Ontario.

We propose that, instead of privatizing Hydro One, the government consider selling Hydro One to a community enterprise. This may be a more effective way of raising the funds to build infrastructure while reducing the size of government. This alternative is possible when community enterprise has the policy tools and the strategic investments to build the capacity to deliver public services.

A community enterprise is run by a group of people who get together to develop a business that creates jobs and generates economic activity with a view to investing surplus, or profits, as you might call them, for the betterment of Ontarians. Community enterprise delivers comparable services while reinvesting surplus revenues in education, health care and community betterment.

The government launched a social enterprise strategy for Ontario in 2013. This strategy is the province's plan to become the number one jurisdiction in North America for businesses that have a positive social, cultural and environmental impact while generating revenue. To meet the goals of this strategy, we believe the government needs to take a strategic look at community enterprise for all government procurement. We encourage the government to have a conversation with us about our community enterprise model and to establish a community enterprise act.

In our experience, mobilization and access to affordable capital are the main hurdles to building a strong community enterprise sector in Ontario. Our goal is to work with government to help overcome these hurdles by recruiting directors, raising funds, and building membership to help grow the community enterprise sector in Ontario. We can't do it alone. We need a government that understands the need for strategic policies that support the growth of the community enterprise sector for the delivery of public services. Accordingly, we encourage members to amend Bill 112 to help facilitate the mobilization of communities and financial resources for the development of capacity in the delivery and generation of electricity.

In the alternative, we encourage the members of this committee to bring forward a community enterprise act. This act would help facilitate the mobilization, again, of communities and financial resources for developing capacity to play a part in the delivery of publicly funded services. Trade agreements are bringing increased competition from abroad for government procurement opportunities. Now is the time to give communities adequate tools to do the jobs that governments have chosen to outsource or privatize. This is a conversation that is long overdue.

I look forward to your questions and a motion to amend this bill. I would welcome a question on the role of the Ontario Energy Board in setting rates as well. Thank you.

The Chair (Mr. Grant Crack): Thank you, Mr. Mole.

We'll start with the government. Mr. Delaney?

Mr. Bob Delaney: Thank you, Chair. We have no questions for this deputant.

The Chair (Mr. Grant Crack): Thank you.

We shall move to the official opposition. Mr. Yakabuski?

Mr. John Yakabuski: Thank you, Mr. Mole. I'm not sure that your presentation today is really directed at Bill 112, but I do have your petition and wish you the very best with that.

Your other idea with regard to a different bill that you mentioned: I would suggest you make that motion to the government, and perhaps they'll bring something forward.

Mr. Jeff Mole: Perhaps we could schedule a meeting, then.

Mr. John Yakabuski: I'm sure they will.

Other than that, I don't think that your presentation has to do with Bill 112. I have no direct questions because I don't see it as being pertinent to Bill 112.

Mr. Jeff Mole: To your point, I did actually look at what the purpose of the bill was, and there is no actual purpose specified within the bill. So I looked to the title, and the title of the bill indicates that they are looking to provide—how does it go?—greater value and protection for consumers. By developing the social enterprise sector in the generation of electricity and in renewables, for example—the government, when they brought out the Green Energy Act, said they wanted communities involved in the development of energy projects. By doing so, the profits are then reinvested for the betterment of the community, which provides a higher return on investment for the ratepayer. The ratepayer has been paying big money for renewable energy projects, but yet the people of Ontario don't get a good return on investment. By ensuring that communities own and manage—it's like the First Nations that were just here before us. Ensuring that communities can own renewable energy projects ensures that those profits, if you will, can be reinvested for the betterment of communities, and that provides better value for the consumer.

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Mr. John Yakabuski: Thank you.

The Chair (Mr. Grant Crack): Mr. Tabuns?

Mr. Peter Tabuns: Mr. Mole, thank you for being here today. Mr. Yakabuski asked the questions that I was going to ask, so I'm good.

Mr. Jeff Mole: Thank you, Mr. Tabuns. Thank you, Mr. Chair.

The Chair (Mr. Grant Crack): Thank you, Mr. Mole, for coming before committee this afternoon.

ONIT ENERGY LTD.

The Chair (Mr. Grant Crack): Next we have, from Onit Energy Ltd., Mr. Balaban, who is the president and chief operating officer. I believe you have an associate with you, so we welcome you, sir. Please introduce yourselves.

Mr. Noble Chummar: Thank you, Mr. Chair. I spoke with the Clerk earlier. I'm Noble Chummar, counsel to Onit Energy as well.

The Chair (Mr. Grant Crack): Thank you.

Mr. David Balaban: Thank you.

Good afternoon. I'm David Balaban, president and chief operating officer of Onit Energy. On behalf of Onit, we'd like to thank the committee for the opportunity of allowing us to share our position regarding Bill 112.

Onit markets to small and mid-size commercial customers—not residential—throughout Ontario. We commenced marketing in April 2014 and currently have 5,000-plus customers under management and a growing workforce of 50 individuals. Onit believes that Bill 112 will have a direct effect on voter choice regarding energy procurement in Ontario.

I'll be covering three main areas today: (1) eliminating high-pressure door-to-door sales for residential consumers; (2) verification calls; and (3) commissioned sales, and how reasonability applies to all three.

(1) Eliminating high-pressure door-to-door residential sales: It's reasonable. There have been significant problems regarding residential door-to-door in the past, and we have no issue with this change. Our business model does not include residential customers and the high-pressure sales associated with it.

(2) Verification: Is it reasonable to include Internet and online enrolments as part of the verification protocol? We believe it is unreasonable, especially with commercial customers. Why? It's not a high-pressure sale. Onit schedules appointments, dispatches field agents to our customers, discusses the program and, should they choose to enrol, the commercial customer does so online. Internet-enrolled customers are all provided a copy of their contract, price comparisons and disclosure statements as mandated. They have to do multiple steps to acknowledge before they are on-boarded.

To have them verified 10 days after the fact is onerous for both the client and for us. It's unreasonable, 10 days later, to have them listen to us read a five-page script and answer 25 questions. Business owners do not have time to do this. Not only that, but based on current rules and billing cycles, regulated electricity consumers have up to 120 days—that's four months—to cancel their contract, without penalty, from the date of enrolment. We feel they are well protected.

(3) To our last point, compensation: Bill 112 defines how salespeople in the energy industry are compensated. Onit believes: (a) This was intended to apply to residential consumers and residential salespeople and not the commercial customer; and (b) it borders on undemocratic and could potentially cause enormous concerns for voters in Ontario.

Garnering sales by its very nature is incentive-based. I don't know of any company that pays its commercial sales force a predetermined salary. Singling out the retail energy industry is unfair. It's the cornerstone of multiple businesses: manufacturing, real estate, financial and insurance companies alike. Again, we submit that the modification to Bill 112 to include commercial sales is unintended as the bill eliminates high-pressure residential door-to-door sales, which was the main intent.

In summary, we support your decision to eliminate high-pressure sales at the residential door; we wish to have Bill 112 exclude Internet and online agreements; and we want to retain incentive-based commission programs for commercial agents.

Handled professionally, with the government and retailers working together hand-in-hand educating con-

sumers, we can provide them with choice—and choice is good. Take telecommunications: Many of us remember paying over a dollar a minute for long-distance calls to the States. There was no choice; now we have choice, and choice is a whole new ballgame.

The energy industry is going through its own challenges today. Peak power rates have increased 8.7% in the last six months and 25% this year.

Choice is good. The voters will choose to remember this government if energy choice is no longer a choice. Thank you very much.

The Chair (Mr. Grant Crack): Thank you. We'll start with the official opposition. Mr. Yakabuski?

Mr. John Yakabuski: Thank you very much, David, for joining us today. Your submission was quite similar to the one from Summitt Energy, except you engage only in commercial contracts, correct?

Mr. David Balaban: That's correct. We chose, as a business model, not to get involved in the residential market.

Mr. John Yakabuski: Right, so door-to-door really hardly applies and doesn't affect you.

Mr. David Balaban: Insofar as we book appointments with our clients and go visit them. That's how we apply our business model.

Mr. John Yakabuski: Right. So you have a previous—

Mr. David Balaban: We book appointments.

Mr. John Yakabuski: You call; you see if they're interested. If they're interested, you set up an appointment.

Mr. David Balaban: That's correct.

Mr. John Yakabuski: Okay. You don't just walk in and—

Mr. David Balaban: No, sir.

Mr. John Yakabuski: It's too risky. You're not likely to be able to meet the person who could actually sign the contract anyway, right?

Mr. David Balaban: That's the point with our business on the commercial side. Doing that, small business owners today don't have time for ad hoc—

Mr. John Yakabuski: So you're not affected by the door-to-door part of this legislation, but you're here because you feel some of this legislation is overly restrictive to a sector of the economy, and that is secondary retailers of energy contracts.

On the commission side, I happen to agree. My wife's a commissioned salesperson; she sells real estate. I don't know that anybody is saying that she should somehow be sold—although she'd love it if it was universal and you got paid the same amount for selling a house in Barry's Bay as you do for selling one in Toronto. I think she would like that. Forget about this commission business; just give her—

Mr. Mike Colle: They could have the same prices in Barry's Bay, too.

Mr. John Yakabuski: Yes, let's just give her the 20 grand for selling a house; we'll take it.

Mr. Bob Delaney: Twenty?

Mr. John Yakabuski: Maybe more.

Anyway, I understand the principle. Where do you think the government is on this? If they want to ban the use of commissions in this sector of the economy, what do you think their reasons are? Do they want to see this sector disappear completely? Do you think that that might be the motivation?

Mr. Noble Chummar: If I can answer that, Mr. Yakabuski: Having spoken with government and having reviewed the legislation, we believe that the new draft of the legislation simply doesn't take into account the fact that there is a distinction between residential and commercial.

And number two, it doesn't take into account the fact that the bill itself is eliminating door-to-door sales. In terms of the compensation side of things, it seems like an onerous measure that was included to drive that political point home, but removing door-to-door sales and making it exclusively voluntary/commercial sales makes that particular provision redundant.

The Chair (Mr. Grant Crack): Okay. Thank you very much. We appreciate that. We'll move to Mr. Tabuns from the third party.

Mr. Peter Tabuns: Mr. Balaban, thanks for being here today.

Mr. David Balaban: Thank you, sir.

Mr. Peter Tabuns: The first question is one that I asked an earlier presenter. Where do you get your electricity from?

Mr. David Balaban: We have a special arrangement with Shell Energy North America, and they either buy from Bruce Power or Brookfield.

Mr. Peter Tabuns: Bruce or Brookfield?

Mr. David Balaban: Yes.

Mr. Peter Tabuns: Okay. I understand the economics on the retail end. I've just seen an awful lot of reports. What is it that you give to commercial customers that makes your service valuable to them?

Mr. David Balaban: We give a commercial customer choice. Basically, we provide them with choice. We have fixed contracts for natural gas as well as power, and we have basically a HOEP-plus product which, again, gives the consumer choice. We strongly believe that mandating specific rates is unreasonable, so we provide that choice for the customer.

Mr. Peter Tabuns: Are you able to provide power at a lower cost to your customers than they can get from the local distribution utilities?

Mr. David Balaban: That's a good question. We did an analysis. This year, a customer on our HOEP-plus product would have saved—and I'm talking about a small commercial customer using about about 150,000 kilowatt hours in an equal mix of on-peak and off-peak—about \$1,200.

Mr. Peter Tabuns: Okay. Thank you.

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The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. I'd like to thank you—

Mr. Mike Colle: Ahem.

The Chair (Mr. Grant Crack): Is it a point of order?

Mr. Mike Colle: It's my turn to ask questions.

The Chair (Mr. Grant Crack): Oh yes, that's correct. Mr. Colle. Sorry, folks.

Mr. Mike Colle: Sorry to interrupt.

The Chair (Mr. Grant Crack): Go ahead, Mr. Colle.

Mr. Mike Colle: I guess, Mr. Balaban, that the point you're making is that this bill should be amended to separate the energy retailers' treatment in the residential sector and your commercial sector.

Mr. David Balaban: That's correct, sir. We feel strongly that the number of complaints and the confusion have been done at the residential door, and that's why we support eliminating door-to-door for residential consumers. We don't feel the same way at the commercial door; it's a different sale and it's a different customer. Now that we've eliminated the high-pressure sales tactics on the residential consumer, we feel that the commercial customer should have different treatment.

Mr. Mike Colle: Okay. In terms of the verification: I heard you say that you think it's onerous to have this 10-day verification period, where you have to read over all the litany of things you have to be certainly aware of—but hasn't it been increased from 10 to 20 in this act?

Mr. David Balaban: Potentially—

Mr. Mike Colle: Or is it different for commercial?

Mr. David Balaban: No, it's the same for commercial as for residential. That's why we're calling into question the whole verification protocol.

Mr. Mike Colle: So the commercial customer right now, if this bill was passed, would have up to 20 days to basically change their mind, right?

Mr. David Balaban: Correct. If it's a small-volume electricity customer who is regulated, they'd have pretty much four months—30 days after their first bill—to change their mind, which equates to almost 120 days.

Mr. Noble Chummar: And in that time, there's this verification concept that—it's bizarre. Basically, it's a five-, six- or seven-page script. Someone would pick up the telephone, contact that customer, be they commercial or residential, and basically go through that script and say, "Hello. How are you doing? We understand that you"—it just doesn't make sense in this particular circumstance. It made sense, perhaps, when door-to-door sales were the ongoing norm, but with the elimination of door-to-door sales—it didn't affect this retailer anyway—the verification concept just simply doesn't make sense.

Mr. David Balaban: Specifically, when a customer, by his or her own accord, logs on to the Internet, enrolls in his or her spare time—which can be when business hours are up, if they have a change, or after hours at their own leisure—they've consciously ordered something. Not unlike your SportChek example earlier today, they want it now.

Mr. John Yakabuski: They've already been delivered.

Mr. David Balaban: They've already been delivered. That's correct.

Mr. Mike Colle: Also, in terms of the commission thing: Generally, how do you pay your salespeople now? How do they get paid? Salary? Commission?

Mr. David Balaban: They are paid commission. We have two sets of people: telemarketers who make the calls are basically a hybrid of a base as well as a commission, and the field agents are strictly commission.

Mr. Mike Colle: So you feel that if the commission were taken away, you'd almost lose that traditional incentive salespeople have to hustle and get more customers?

Mr. David Balaban: I think every commercial salesperson in this province "hustles," from real estate to financial managers of hedge funds. It's just part and parcel of what they do.

Mr. Noble Chummar: The intent of the legislation, we believe, is that it was trying to disincite people from doing that at a doorstep. This is an entirely different scenario, where a sophisticated commercial customer has asked for this person to come into a boardroom—perhaps this person is an engineer or an energy consultant of some sort—and fully understands what he or she is entering into, and the transaction takes place. By disinciting people, it's just not smart for business.

The Chair (Mr. Grant Crack): Okay, thank you very much. We appreciate you two gentlemen coming before committee this afternoon.

Mr. David Balaban: Thank you.

The Chair (Mr. Grant Crack): Thanks for your insight.

CANADIAN RITERATE ENERGY

The Chair (Mr. Grant Crack): Next we have Canadian RiteRate Energy. I believe we have Mr. Tim Nerbas as president, and Imran Noorani, who is the director of regulatory. We welcome you both, gentlemen. You have five minutes.

Mr. Tim Nerbas: My name is Tim Nerbas. I am the founding partner and president of RiteRate, a Cricket Energy company. I'm a chartered professional accountant and a chartered financial analyst with over 30-plus years of related energy retail experience, including 15 years of direct retail experience with Enbridge and RiteRate.

I wish to thank each of you for attending today, and in particular the Ministry of Energy for allowing RiteRate, a really great company, to share the real and present unintended consequence of Bill 112: We'll be out of business.

Why is RiteRate a really great company? Since inception back in 2004—online only, never door to door, never outbound telemarketing, never auto-renewed, no hidden costs: all examples of going above and beyond existing legislation. Result: an A-plus rating with the Better Business Bureau and an average of one OEB complaint per year, with emphasis on "one OEB complaint per year."

What's wrong with Bill 112? We have two issues. I'll talk on one, Imran the other.

Here's the first: giving my online natural gas customers more time to cancel for free, no questions being asked. It's now four to five months, or almost a full winter of natural gas supply, on my dime. Ouch. Give that option to the customers of two online brands you know; one is called Amazon and the other one is called TD Ameritrade. Result? Serious impairment and wipe-out. Here's why. Amazon, in the retail industry—apply Bill 112: Buy your winter boots in December, wear them all winter and give them back to Amazon in April. I'm sorry, but that's true. TD Ameritrade, financial industry leaders—people I admire; Even my dad worked for TD—apply Bill 112: You buy your stock at a hundred bucks, watch the stock market for four to six months and then give it back to them, but only if the stock price is less than \$100, thank you. Mind-boggling.

At this time I'd like to introduce Imran Noorani, RiteRate's director of regulatory.

Mr. Imran Noorani: Good afternoon, everyone. I'm here to discuss Bill 112's second issue that we have, which is verification of all contracts. I think it's an unintended consequence.

Currently in Ontario, as the rules currently are, agreements that are signed up online do not need verification because the understanding is that they're signed up online, through somebody's own volition, making a choice, and there's no sales pressure involved. The reality is, a ban on door-to-door sales helps address any issue related to fraudulent sales that might arise, let's say, out of an iPad, because it could be an online sale. So the exploitation issue, and the requirement to verify every agreement, is actually dealt with through the ban of door-to-door sales.

In Ontario, the Consumer Protection Act has a remote exemption, so if somebody enters into an online agreement they don't need to be verified. If somebody is in BC, BC also says that there's an exemption for online requirements. In 2012, the OEB actually did issue a bulletin explicitly stating that any agreement that is signed up online is exempt from verification because there is no undue sales pressure involved in the process.

For RiteRate, if we now have to verify every agreement, we would lose 60% of our business in the first year; we wouldn't be able to justify our existence; we would go out of business entirely. And we'd have to now start doing telemarketing phone calls to verify agreements, which nobody enjoys.

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Fundamentally, this is bad policy in Ontario, and it's exacerbated because there are other legislative actions happening as well. Bill 112 will be followed by an amendment to regulation 389/10, which has 10 measures that will be introduced to the energy sector. Additionally, the OEB is also currently introducing 13 additional measures. The intent of all of this combined is to wipe out the segment.

We currently have a declining market for natural gas, which is why it's really easy for anybody doing an analysis—a limited analysis—on natural gas agreements

and electricity agreements in a declining market to say that there's no value. They've cut out the other component. In 2006, around the time of Hurricane Katrina, people were saving a lot of money. The result of this legislative change will be taking consumer choice away from them—the opposite intent of deregulation in 1987.

This policy is almost like a scorched-earth policy. One thing that I regularly experience—well, not regularly, but I do experience—is racism, because I am a brown man born and raised in the Middle East. Bill 112 is essentially using the same philosophy, which is that every marketer and every retailer out there is there to deceive everybody and to steal money from their pockets. Our existence and our complaint records and our ratings show that this is not the case.

Really, at the end of the day, this bill isn't protecting consumers; it's taking choice away from consumers and telling them that the government knows what's best for them when it comes to energy.

The Chair (Mr. Grant Crack): Okay, thank you very much. We appreciate your comments. We'll start with the government: Mr. Dickson.

Mr. Joe Dickson: Thank you, gentlemen. I'd just like to ask clarification. You indicated that there has only been online service provided by you—

Mr. Tim Nerbas: Yes.

Mr. Joe Dickson: —in the sales and marketing end; no door-to-door.

Mr. Tim Nerbas: Yes.

Mr. Joe Dickson: No telephone solicitation.

Mr. Tim Nerbas: Yes.

Mr. Joe Dickson: So the only thing I don't see is a halo over your head and a pair of wings as you've just come down from heaven.

Mr. Tim Nerbas: Not true.

Mr. Joe Dickson: That's true?

Mr. Tim Nerbas: It's the model that we chose to run 12 years ago, yes.

Mr. Joe Dickson: So the question then is, apart from the measures considered in this bill, what other steps is the electricity retail sector taking to improve transparency in sales and marketing, knowing that you're not in sales and marketing?

Mr. Imran Noorani: When it comes to electricity specifically, we actually have a great profile of experience between us and the other staff as well. I actually did work for the Ontario Energy Board, and I worked on the case of pricing—time-of-use pricing. The only product that we actually offer provides true value. We have an online tool as well that we've developed in addition to the OEB's tool which basically profiles if a person would benefit being on our program or not.

Again, contrary to what the OEB report said, and Bruce Sharp's report actually suggested, because he didn't look at other products—he only looked at fixed products—we actually educate our customers in a lot of detail. We actually do profiled analysis of customers; we spend time with them on the phone. When it comes to

increasing transparency in the sector, we can discuss the global adjustment, but really, it's not our charge.

Mr. Joe Dickson: Last question: lowest complaint record, averaging—and that's on your brochure—one complaint per year. Is that per town, per city, per province?

Mr. Imran Noorani: No, just period. One complaint per year.

Mr. Joe Dickson: One, period.

Mr. Imran Noorani: Yes. We were averaging one complaint per year. That is correct.

Mr. Joe Dickson: That's all my questions, Mr. Chair. Thank you, gentlemen.

The Chair (Mr. Grant Crack): We shall move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Tim and Imran. Just for clarification, I have to ask you—one complaint per year. That's amazing, but can you give me an idea of how many contracts we're talking about?

Mr. Tim Nerbas: Yes, sure. Being through the entire cycle twice—

Mr. John Yakabuski: An average.

Mr. Tim Nerbas: Yes. High: 30 homeowner contracts, less than 50,000 cubic metres a year. Low: eight.

Mr. Imran Noorani: Sorry; we're talking thousands.

Mr. Tim Nerbas: Eight thousand, sorry, yes. We started with zero, of course.

Mr. John Yakabuski: So from 8,000 to 30,000 contracts through the cycle, and you average one OEB complaint per year.

Mr. Tim Nerbas: Yes.

Mr. John Yakabuski: That's pretty remarkable.

You really were passionate when you came here.

Mr. Tim Nerbas: Sorry.

Mr. John Yakabuski: No, no, not sorry. I really appreciate that, because I think sometimes people come to committee and they don't want to be as blunt as maybe they should be. You're not saying that this bill, because of some of the pieces in this bill which will affect everybody in this sector—that this is going to make it difficult for you in business. You are saying that this bill, if all of the clauses are enacted without some amendments, will put you out of business?

Mr. Tim Nerbas: Yes. Off the residential business, yes.

Mr. John Yakabuski: Off the residential business.

Mr. Tim Nerbas: Yes.

Mr. John Yakabuski: Do you believe, and I'm asking you for your opinion on this, that this bill is designed by the government to put this sector out of business?

Mr. Tim Nerbas: I will call it and describe it as I did in my opening: It's an unintended consequence of Bill 112, because if I was the only retailer in Ontario with my track record, there would never be any large enough complaints at the OEB to challenge the legislation.

Mr. John Yakabuski: Are you hopeful that the government will entertain reasonable amendments to this bill?

Mr. Tim Nerbas: Hopeful? I pray.

Mr. John Yakabuski: Thank you very much. I appreciate your presentation.

Mr. Tim Nerbas: You're welcome.

The Chair (Mr. Grant Crack): Mr. Tabuns?

Mr. Peter Tabuns: Mr. Nerbas, Mr. Noorani, thank you for your presentation. First question: What's your split between commercial and residential customers, if you have a high of 30,000?

Mr. Tim Nerbas: Customer counts, utility account numbers: 99% homeowner, 1% commercial; volumetric: 55% residential, 45% commercial.

Mr. Peter Tabuns: Okay. What's your source of electricity that you're selling to the public?

Mr. Tim Nerbas: We do not sell fixed-rate electricity. So it is the MEU. We sell HOEP—wholesale energy market price.

Mr. Imran Noorani: We're sourcing through the IESO.

Mr. Tim Nerbas: Yes, all of it.

Mr. Peter Tabuns: That's helpful. Okay. Thank you.

You tell me that you discuss people's energy use, their electricity use, and you identify those who will benefit from what you are selling and those who won't. So what savings do people see and why is it that you are able to offer savings when the analyses that we've been presented with show, in general, much higher prices from retailers?

Mr. Imran Noorani: The way the RPP is currently structured in Ontario, time-of-use price is mathematically calculated with a profile usage of an average homeowner using 64% of their electricity off-peak, 18% on-peak and 18% mid-peak. When you have, let's say, a business or when you have, let's say, somebody who is retired, they're at home during the day, somebody with young children or their parents are now living with them—in these scenarios their on-peak and mid-peak profiles are higher than the average. When their on-peak and mid-peak profile is higher than the average, they are better off being on a wholesale and pass-through off the market grid. The only way that they would have that access in Ontario is if they were roughly 25 homes in size, and so we give customers access to this by pooling them all together as if they were one big, large buying customer.

Mr. Peter Tabuns: Okay. Thank you.

The Chair (Mr. Grant Crack): Thank you both, gentlemen, for coming before committee this afternoon. It's much appreciated.

Mr. Tim Nerbas: Thank you.

ONTARIO ELECTRICAL LEAGUE

The Chair (Mr. Grant Crack): Next we have the Ontario Electrical League: Mr. Dave Ackison, who is the chair. We welcome you, sir.

Mr. Dave Ackison: Thank you very much, Mr. Chair, and good afternoon.

The Chair (Mr. Grant Crack): Good afternoon. You have five minutes.

Mr. Dave Ackison: My name is Dave Ackison. I am a licensed electrical contractor from Peterborough. I am the current chair of the board of directors of the Ontario Electrical League. The Ontario Electrical League is a non-profit provincial organization of companies and organizations in the electrical contracting industry from communities across Ontario. Our members include licensed electrical contractors, electricians, municipal utilities, electrical inspectors, distributors, manufacturers and their representatives, consulting engineers, educators, service companies, and, together, our members employ more than 12,000 workers in the electrical industry in Ontario.

I am pleased to have the opportunity to be with you today and share the Ontario Electrical League's comments on Bill 112, the Strengthening Consumer Protection and Electricity System Oversight Act. I am going to focus my remarks specifically on sections 15 and 16 of Bill 112.

1540

Let me first address section 15, which removes the restrictions in section 71 of the Ontario Energy Board Act that prohibit a municipality-controlled local distribution company from doing business other than the transmission or distribution of electricity, except through a separate company.

If enacted, this change allows the Ontario Energy Board to authorize a local distribution company to engage in work such as repairing street lighting, for example. The Ontario Electrical League opposes the removal of these restrictions for two reasons.

First thing, engaging in non-transmission or non-distribution work such as repairing street lighting can only be undertaken by an electrical contractor with a licence from the Electrical Contractor Registration Agency of the Electrical Safety Authority. An ECRA-ESA licence ensures that the electrical contractor is qualified to do the required work, which protects both the electrical worker and the public.

Local distribution companies are not licensed by ECRA-ESA. If the restriction in section 71 is removed, this will allow the Ontario Energy Board to authorize these non-ECRA-ESA licensed companies to do this type of work and put both electrical workers and the public at risk.

Second, the operation of local distribution companies is effectively subsidized by the ratepayers in a municipality, including the cost of their staff, trucks, equipment and other supplies. If the restriction in section 71 is removed, the companies will have a ratepayer-funded competitive advantage which, when competing for business against private sector companies like mine and other Ontario Electrical League members—it is not fair and not acceptable for municipal hydro ratepayers to subsidize their local distribution companies to compete with private sector companies. This only results in an unfair competitive advantage and higher rates for electricity customers.

Let me speak to section 16 of Bill 112, which repeals section 73 of the Ontario Energy Board Act. Section 73

of the act restricts the types of activities that municipality-controlled local distribution companies can engage in. The Ontario Electrical League opposes the repeal of section 73. As we noted earlier, removing restrictions on local distribution companies gives them an unfair competitive advantage when competing with our members for electrical contracting work.

The Ontario Electrical League believes that fair, honest competition is in the best interest of hydro ratepayers across the province. Mr. Chair, I urge the members of this committee to amend Bill 112 by removing sections 15 and 16 and maintaining the current restrictions on local distribution companies, as outlined in the Ontario Energy Board Act.

Maintaining these restrictions protects electrical workers and the public. It protects hydro ratepayers from unnecessary rate increases and prohibits unfair competition with the private sector.

Thank you for the opportunity to make these remarks.

The Chair (Mr. Grant Crack): Thank you; we appreciate that. We shall move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Mr. Ackison, for joining us today and giving us a different perspective on sections 15 and 16 of Bill 112.

To be honest with you, this is the first I've heard of the concerns of the Ontario Electrical League. We generally have good communication, so I'm pleased that you're here today and would want to hear more about how this might affect you, because obviously the EDA was on the other side of that argument when it came to removing those restrictions from section 71.

Since Bill 112 was tabled, have you had the chance to approach persons in the minister's office with your concerns with how this may affect your members and their ability to compete for their work?

Mr. Dave Ackison: No, we have not as of yet. Everything has moved along very quickly.

Mr. John Yakabuski: Yes. You realize that amendments have to be tabled by Thursday, and the bill will be going through clause-by-clause very soon. Basically what you're saying is, if we repealed sections 15 and 16, that would restore more of a competitive balance for your members. We do appreciate and respect the work that your members do. We've all got members of the Ontario Electrical League in our constituencies. We know the good work you do, so that is quite frankly something that does concern me when I hear this coming before the committee.

Is there anything else you wanted to point out with regard to those sections that may be helpful for us to understand what kind of amendments may be necessary?

Mr. Dave Ackison: What we're talking about is, a power line technician is a voluntary trade; an electrician is a compulsory trade. Under the voluntary trade part, a labourer or a person who is not trained could do the work of the electrical industry through the retailer.

Mr. John Yakabuski: So, today, your members would do a lot of this work?

Mr. Dave Ackison: Yes.

Mr. John Yakabuski: They would be contracted to do it?

Mr. Dave Ackison: My company does up to—some years, up to 50% of my business is repairing street lights: whole line and sidewalks. You can have street lights along the walkways where, if the work is improperly done, they can become live, and you wouldn't know until it's raining. It has happened in many communities.

Mr. John Yakabuski: Okay. Well, thank you very much for your input today. We'll certainly take all of that under consideration. Appreciate that.

The Chair (Mr. Grant Crack): Thank you. Mr. Tabuns.

Mr. Peter Tabuns: Mr. Ackison, thank you very much for your presentation today. What percentage of street lighting work, for instance, is done in Ontario by private contractors as opposed to municipal or local distribution company staff?

Mr. Dave Ackison: I can only guess that—in my town, almost 80% of it in Peterborough is done by contractors.

Mr. Peter Tabuns: And the other 20% is done by?

Mr. Dave Ackison: By the utility on an emergency basis, etc., or within their scope or on their lands.

Mr. Peter Tabuns: Okay. Like Mr. Yakabuski, this is the first I've heard of this as a potential issue. Have you seen interest on the part of local distribution companies to actually take over this work?

Mr. Dave Ackison: Yes. Over the years, they've tried many times to take over this work from us.

Mr. Peter Tabuns: And what has prevented that from happening?

Mr. Dave Ackison: The minister. At different times, we talked at different hearings, and I met up with the ministry and we spoke to what would happen to electrical contractors who are doing this type of work.

Mr. Peter Tabuns: Okay. I don't have further questions for you, but I do appreciate you bringing our attention to this.

The Chair (Mr. Grant Crack): Thank you very much; appreciate that. We shall move to the government: Mr. Delaney.

Mr. Bob Delaney: I'm interested in picking up from Mr. Tabuns and exploring in a little bit more detail your statements around whether some of the local distribution companies would prefer to use their own people rather than your people. Would you expand a little bit on the rationale? If, hypothetically, there was someone from a local distribution company sitting where you are, what would they be saying for their rationale about wanting to take over work that's done by an independent contractor?

Mr. Dave Ackison: They would say that they have the equipment, etc. They figure that they could do the work. Whether they're trained for it or not, they work on high-voltage lines, but they work on high-voltage lines for the municipality. They don't work on it for the private sector. So I would say that they just figure they don't have to go through the training, the ECRA licensing that

the Electrical Safety Authority has. That avoids all that, so the cost of it is—and the training is not there.

Mr. Bob Delaney: My own electrical utility, which keeps in close touch with me, often makes a point about the degree to which they emphasize training, certification and safety. Could you expand a little bit on on what basis you make the statement that they don't have to go through the training? Why would they not either choose to or want to or be required to?

Mr. Dave Ackison: Again, the 434 is a voluntary licence, and it is the lineman's ECRA licence. They are not trained in fixing street lights or any other type of apparatus as far as it goes, except for their transmission systems, whereas 309A is an all-encompassing licence that is allowed to do all that part of it. We take our five years of apprenticeship, our training, and we are brought up through that part of repairs, fixing lighting, and trained to solve that problem.

1550

On the utility side, they use a third party, which, when they use the third-party company, if I'm not mistaken, that part of the company can be licensed through ECRA, and they must have a master licence and an electrician on staff on that part. That's not the retailer or the LDC themselves going in.

Mr. Bob Delaney: Okay. Thank you, Chair.

The Chair (Mr. Grant Crack): Thank you, Mr. Ackison, for coming before the committee this afternoon.

Mr. Dave Ackison: Thank you very much.

The Chair (Mr. Grant Crack): You're welcome.

JUST ENERGY

The Chair (Mr. Grant Crack): Next we have, from Just Energy, Mr. Davids, who is the executive vice-president and general counsel, and also Ms. Ruzycki, vice-president of regulatory affairs. We welcome both of you to committee this afternoon. You have five minutes.

Mr. Jonah Davids: Good afternoon, committee members. My name is Jonah Davids and I am the executive vice-president and general counsel for Just Energy. Joining me is Nola Ruzycki, our vice-president of regulatory affairs for Canada.

Just Energy is a provider of energy solutions to residential and commercial customers through fixed, variable and flat-bill electricity and natural gas products, green energy products, such as renewable energy certificates and carbon offsets, as well as innovative energy management tools, such as smart thermostats and solar products for residential customers. Just Energy operates in 20 jurisdictions across Canada, the United States and the United Kingdom, servicing approximately two million customers. Just Energy employs over 1,200 people, 800 of whom are employed in 11 offices throughout Ontario. We're a partial owner of ecobee inc., a smart-thermostat developer headquartered here in Toronto.

As a company, we are committed to continuing to bring value to Ontario customers in the form of innovative energy management technologies and products, such

as our flat-bill product, which combines a smart thermostat with a single monthly cost to consumers, no matter their usage, protecting them from events such as the polar vortex. We appreciate that customers want choice in helping them manage rising energy bills, and know that Just Energy is in the best position to develop products quickly and effectively that will do so. We support efforts to improve consumer protection as well. That said, we are concerned that Bill 112, as it is drafted, will limit consumer choice and make it near impossible for innovative companies to bring new energy management solutions to Ontario.

Just Energy recommends striking subsection 4(1) and sections 6 and 7 in their entirety. Bill 112 amends the ECPA to require verification of customer-initiated contracts, such as online contracts, and extends the contract verification cooling-off period from 10 to 20 days. Applying verification requirements to customer-initiated contracts such as online enrolments is unnecessary to accomplish the objective of improved consumer protection and is actually counter-productive to providing the consumer with the ability to independently choose the best option for him or her.

With the prohibition on in-person, at-home sales under the bill, contracts will be initiated at the outset by the consumer making his or her own choice in his or her own time. If the consumer is exercising their independent choice to seek out and enter into an energy retail contract, owners' verification procedures 20 days after selecting the product are unnecessary.

Applying the contract verification for online enrolments and extending timelines does not enhance consumer protection in any measurable way, but instead puts roadblocks in the way of Ontario consumers having their energy management choice satisfied. In fact, the BC Utilities Commission has recently amended their code to provide that no verification is required for customer-initiated contracts. This is the present law in Ontario and we see no need to change it, especially since customers can cancel their contract 30 days after they receive their first bill, with no exit fees.

We also note that the bill regulates how salespeople are compensated—you've heard this from others—with the possibility of prohibiting the payment of commissions. Since the alleged aggressive behaviour at the consumer's door has been addressed with the prohibition on in-person at-home sales, we believe it is unnecessary for the government to interfere with private businesses' compensation structures.

Accordingly, we recommend that section 9.3 of the bill should be struck in its entirety. However, if the committee is unwilling to strike this section of the bill, we recommend that the bill be clarified to include the word "residential" before the word "consumers" in section 9.3 so as not to unintentionally capture an essential form of compensation to salespersons selling to businesses in the province. Without this change, we are very concerned that suppliers will cease to provide the choice to businesses in the province, thereby limiting the

ability of Ontario-based businesses to manage their energy supply.

Just Energy is committed to working with the province to enhance consumer protection. However, without the changes I have mentioned, this bill will dilute consumer choice and make it difficult for this province to be on the forefront of new, innovative, value-added products which retailers are in the best position to provide.

Thank you for your time and attention to this matter. I welcome any questions you may have.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate your comments.

We shall move to Mr. Tabuns.

Mr. Peter Tabuns: Thank you very much for your presentation today. As I've asked other retailers, where do you get your power from?

Mr. Jonah Davids: We have contracts with Bruce Power, Shell, BP—a number of parties.

Mr. Peter Tabuns: Okay. What do you charge for power?

Mr. Jonah Davids: I guess it depends on the product. As we mentioned, our flat-bill product is a flat rate that includes a smart thermostat, a flat bill for your power and a flat bill for your gas. I think the current price—Nola, you can correct me if I'm wrong—is an \$89.99 monthly charge for all those three.

Mr. Peter Tabuns: For those who are not on that flat rate, what's the charge per kilowatt hour?

Mr. Jonah Davids: That's the only product we currently sell in Ontario to residential customers. For commercial customers, it would vary, depending on the negotiations with those customers. I think we've offered that product for about two years now.

Mr. Peter Tabuns: Okay. The value that you actually give to customers—we've been told by the Ontario Energy Board and others that private retailers charge a substantial premium for the power they provide to customers. What value do you actually give to customers who sign up with you?

Mr. Jonah Davids: I think that, as I mentioned in the presentation, the current product, which we call our flat bill—we call it "unlimited" in other jurisdictions—offers the customer peace of mind that, no matter the volumetric usage that they have—so if there's a polar vortex and consumption skyrockets—they'll pay the flat price, plus, in the case of Ontario, they get a smart thermostat so that they can control their demand and usage. If they go up to the cottage and forgot to turn off their air conditioning in their house, they can do that from their phone. The smart thermostat, the ecobee smart thermostat, helps learn their usage and helps control demand.

We think value can be seen in a lot of those types of products. Retailers like us, we're constantly looking for new products. We're looking at a product that can help customers understand which appliances in their home are using how much energy and whether it's efficient, based on other people within their jurisdiction using that. These are the types of things that we're constantly pushing at.

Mr. Peter Tabuns: If you weren't selling, or getting contracts signed, on a door-to-door basis, what sort of marketing would you be doing on a door-to-door basis?

Mr. Jonah Davids: Sorry, I guess I don't understand. The door-to-door basis would be banned—

Mr. Peter Tabuns: But you're still allowed to market door to door, under this bill.

Mr. Jonah Davids: Oh, sorry; like the advertising marketing? To be frank, that depends on what the regulations say, but we would probably go to the door and maybe educate the customer about the smart thermostat. I'm not the marketing person, so I'm probably not in the best position to answer that at this point. There may still be door-to-door interaction, depending on what the regulations look like.

Mr. Peter Tabuns: Do you use direct mail marketing?

Mr. Jonah Davids: Not a lot. We have in the past—I don't think in Ontario very much, but we certainly have used it in some of our other jurisdictions, and maybe from time to time in Ontario. We do a lot of online as well.

Mr. Peter Tabuns: Thank you.

The Chair (Mr. Grant Crack): We shall move to the government: Mr. Colle.

Mr. Mike Colle: I guess you're saying the same thing about this 10- to 20-day increase for the verification period being really unnecessary, because you said that a customer can cancel that contract after 30 days anyway.

Mr. Jonah Davids: At 30 days, actually, after they receive their first bill. That could be—as, I think, some of the others—about 120 days after they signed up, depending on when they get enrolled and when the contract switches over and when they get billed. But yes, the customer can do that without any exit fees.

1600

Actually, Just Energy had that policy before the ECPA. It's currently the law under the ECPA for power contracts. We do it for gas, and I think the bill amends it to do it for gas as well.

Mr. Mike Colle: In terms of the commission: You would want to keep the possibility of paying your salespeople the commission on the commercial side—or both?

Mr. Jonah Davids: To be honest, it's questionable who the salespeople are if there's the ban on door-to-door on the residential side. I do think that it's unnecessary to have any prohibition on commissions to salespeople, whether it's residential or commercial. Certainly, on the commercial front, I feel that it's an unintended consequence of the bill that commercial salespeople wouldn't be able to earn commissions.

Mr. Mike Colle: How long have you been involved with the retail end of energy sales?

Mr. Jonah Davids: I've been with Just Energy for eight years.

Mr. Mike Colle: I don't know if you're familiar, but over the last 15 years—whenever this started—one of the most common complaints we got from our constituents

was about the incredible, aggressive tactics of door-to-door energy salespeople: forging signatures, writing up applications under dead people's names, lying about their rates, and especially preying on seniors. In all my years, I've never had as many complaints about any issue as I have with this abuse of door-to-door energy sales. It was just a flood. So you can see why, in this legislation, we're trying to put an end to those aggressive, unethical tactics.

Do you think that is going to end? Has enough been done in this bill to end those people? I'm not saying your company has been doing it, but certainly my constituents have been hounded by these door-to-door people for years.

Mr. Jonah Davids: Obviously, we don't condone that behaviour. Just Energy has had numerous policies and a compliance program in place to deal with fraud, as you mentioned. We have a seniors' policy where we will not sell to a senior at the door. They're welcome to purchase our product, but they would have to call in directly.

I think the ECPA was working very effectively to deal with these types of complaints. The OEB report and the report that that was based on showed a drastic reduction in complaints over the past four years.

I think that banning door-to-door sales for energy contracts will certainly eliminate the complaints of that nature that you'd be receiving, and I don't think that having an online verification will add anything to that.

The Chair (Mr. Grant Crack): We'll move to the official opposition. Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much for joining us today. We've met before.

First of all, you folks are good with the provisions in the bill that put an end to selling contracts at the door?

Mr. Jonah Davids: That wouldn't be our first choice, but we understand the government's position, and we're willing to accept that.

Mr. John Yakabuski: So you're good with that.

Mr. Jonah Davids: Yes.

Mr. John Yakabuski: Your other products, like that air conditioning one you were talking about, where we could control that from our home, our iPhone or smart phone—I don't have a cottage, but supposing I did and I was at the cottage and I remembered that I didn't turn down the air conditioning; I could control that. If I wanted one of those, I'm not getting it for at least 20 days under this bill, right?

Mr. Jonah Davids: Well, if you want it combined with the flat-bill product that we've put together, yes. If you were to go online and enrol for it, you would have to then wait 20 days and then receive a call and answer a 26-question questionnaire without asking a single question—because if you ask a question on that call, they can't enrol you. Most people would probably ask a question. So, in the end, it's probably effectively killed that type of sale for us.

Mr. John Yakabuski: But if I could find that product somewhere else, other than through an energy retailer like yourself, I could go ahead and buy it.

Mr. Jonah Davids: You could, but the one thing that I'll point out is that the government has been pushing for demand management for a long time. Just Energy, in the past two years, with these smart thermostats, has installed tens of thousands here in Ontario—

Mr. John Yakabuski: But I could get it somewhere else, and so the only loser would be you and your ability to sell me that product, because I could go procure it somewhere—someone else could sell me that product—but by legislation you wouldn't be able to sell it to me for 20 days.

Mr. Jonah Davids: Correct; if we combined it with an energy contract, yes.

Mr. John Yakabuski: Right. And how many of your salespeople are on commission?

Mr. Jonah Davids: In Ontario, I would say that probably 90% are.

Mr. John Yakabuski: And that's not unusual?

Mr. Jonah Davids: No.

Mr. John Yakabuski: Do they all sell exactly the same amount?

Mr. Jonah Davids: No.

Mr. John Yakabuski: So some people, in fairness, work harder than others—

Mr. Jonah Davids: Correct.

Mr. John Yakabuski: —and are compensated better as a result of that?

Mr. Jonah Davids: As they develop their skills, yes. Absolutely.

Mr. John Yakabuski: So if you were unable to pay people by commission, like, I said, my wife is paid—human nature—would that likely have a detrimental effect on the effort that's being put out by a lot of salespeople, if they have nothing to look forward to for working harder?

Mr. Jonah Davids: I think it would have a detrimental effect on our business as well. I think that it would be a challenge to find good salespeople who want to sell effectively and properly. They would go to another industry to do that because they want to make commission.

Mr. John Yakabuski: Right.

The Chair (Mr. Grant Crack): Thank you both for coming before committee this afternoon. We appreciate it.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair (Mr. Grant Crack): Next we have on the agenda, from the Ontario Public Service Employees Union, president Mr. Thomas, and political economist Mr. Robinson. We welcome the both of you, gentlemen.

Mr. Bob Delaney: Chair, before this deputation starts—

The Chair (Mr. Grant Crack): Is this a point of order?

Mr. Bob Delaney: Yes, it is a point of order. I would like the Chair to ensure that the deputants actually speak to the bill.

The Chair (Mr. Grant Crack): I shall do my best.

Interjection.

Mr. Michael Harris: He said you'd better speak to the bill, or you're getting kicked out.

The Chair (Mr. Grant Crack): Mr. Thomas, the floor is yours.

Mr. Smokey Thomas: I rest my case about democracy and freedom of speech.

The Chair (Mr. Grant Crack): You have five minutes, sir.

Mr. Smokey Thomas: Good afternoon. My name is Smokey Thomas, president of OPSEU. With me here today is our political economist, Randy Robinson. We're very happy to be here to comment on Bill 112, the Strengthening Consumer Protection and Electricity System Oversight Act.

Our union represents 130,000 working Ontarians in a wide variety of jobs right across the public sector. As a union leader, I'm concerned about wages, but I'm just as concerned about prices. For OPSEU members, a higher price for electricity has the same effect as a wage cut. It's the same for all Ontarians.

My first comment, for the record, is that it is clear to me that this bill exists because the government's plan to privatize Hydro One actually reduces public oversight of the electricity system and weakens consumer protections related to electricity. That's what Ontario's independent legislative officers said six months ago, and it's still true today. Bill 112 doesn't change that in any substantial way.

I don't see how this bill protects anyone from higher electricity prices. Minister Chiarelli seems to be of the view that the Ontario Energy Board's role as an independent regulator ensures that customers won't be gouged by the new profit-making Hydro One.

There's just one problem: Electricity prices keep going up; in fact, they went up yesterday. I believe the Ontario Energy Board does a good job, but it has no real way to control costs in the electricity sector. If government wants smart meters or private companies building gas plants, then those costs will be passed on to the consumers. That's a fact.

In addition to what the minister says, some Liberals say the privatization of Hydro One will make prices go down. Both Beaches-East York MPP Arthur Potts and "Acting Premier" Ed Clark have suggested that private sector discipline will result in cost savings that will be passed on to consumers. I don't see how. In a natural monopoly, the only motivation for a private company to cut spending is to be able to keep the proceeds. That's what the new Hydro One hopes to do. We have already seen their thoughts on the long-term tax break the Liberals are giving them, which our Financial Accountability Officer calls a "tax shield."

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The Hydro One prospectus states that, "Management believes that these net cash savings will not result in a

corresponding reduction in its revenue requirement in future rate applications to the Ontario Energy Board.” In other words, Hydro One managers think that they get to keep the money. It’s reasonable to assume that if they find other cost savings, they would expect to keep that money as well.

At the moment, what happens to money from tax breaks and cost-cutting, and how those relate to electricity rates, is at the discretion of the OEB. It shouldn’t be. As the electricity system becomes increasingly privatized, Hydro rates become increasingly subject to political pressure from private investors. We need to insulate the OEB from that pressure.

Consumer protection, which Bill 112 is ostensibly about, continues to take a back seat to the government’s real goal: the transfer of wealth from the citizens of Ontario to the high rollers who go to cocktail parties with Ed Clark.

I just want to make one final point related to consumer protection. Through our membership in the Keep Hydro Public coalition, we have just sent a lawyer’s letter to the Ontario Energy Board. The letter says two things: First, we are calling on the OEB to conduct its own review of the privatization of Hydro One. Second, we are alerting the board that the government is in violation of the Ontario Energy Board Act. Section 86 of that act requires the new Hydro One Ltd. to seek leave of the OEB before taking over control of the old Hydro One assets. That has not happened.

The Ontario Energy Board works hard to protect electricity consumers. We believe it has an important role to play at this historic moment.

We propose an amendment to Bill 112 that would protect consumers and prevent the new Hydro One from cutting costs in a way that could harm the long-term stability of the system. The amendment would simply say that any revenues freed up as a result of tax breaks or cost-cutting must either be reinvested in the electricity system or returned to consumers.

Now, to be clear, our union remains unconditionally opposed to the privatization of Hydro One. The history of privatization in Ontario has been a history of epic failures, one after another.

Last week, our Financial Accountability Officer reported that selling 60% of Hydro One will cost government money, not save it money.

Last year, our Auditor General reported that Ontarians were paying billions of dollars too much by using public-private partnerships to build major infrastructure, and the government’s response to all of this has been to ignore thoughtful criticism. Indeed, 80% of Ontarians oppose the sale, and the Premier’s response was, “Oh, well.”

Thank you. I’ll be happy to take questions.

The Chair (Mr. Grant Crack): Thank you very much. We shall start with the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Mr. Thomas, for joining us today at the Bill 112 hearings. Clearly, you are very, very upset about the government’s

plan to sell Hydro One. Do you think that their intentions for selling Hydro One are simply because they want a whack of cash up front to help with their fiscal situation in the next year or so, or do you think they genuinely believe that Hydro One is going to be a more efficient utility should at least a portion of it be sold off?

Mr. Smokey Thomas: I think they’re desperate for money. They want to balance the books by 2018, whatever that year is, and I think that they’ll do anything. I think that the sale of Hydro One is just the government’s “Drink the Kool-Aid” of “Private is better” without evidence. I’ve not seen any evidence here put forward to us of what they’re saying, that this is going to be good for Ontario. So I think they want the immediate cash. I think the office of the accountability officer said it best: “short-term gain for long-term pain.” To ignore those sorts of things, the losses down the road, is just, in my mind, unconscionable. In their heart of hearts I don’t think most Liberals—privately, some of them say to me they don’t want to sell Hydro, but they’re just told to shut up.

Mr. John Yakabuski: That’s what they’re being told out of the Premier’s office?

Mr. Smokey Thomas: That’s what we hear when we lobby them. Those guys they call “goons”—I call them “professional hecklers.” I’ve had some interesting conversation with backbenchers, yes.

Mr. John Yakabuski: And you believe that most of the members of the Liberal caucus are opposed to the cabinet decision to sell Hydro One?

Mr. Smokey Thomas: Well, they always were when they were in opposition—

Mr. Bob Delaney: Chair, on a point of order: This is not only not even close to the bill, this is way over the line in both imputing motive—

Mr. John Yakabuski: This is what he talked about. You’re cutting into my time here.

Mr. Bob Delaney: Then ask questions about the bill—in both imputing motive and in suggesting—well, I’m going to stop with imputing motive. I’m going to go on that because that is directly contrary to the standing orders.

Mr. John Yakabuski: I am speaking to the presentation by the deputant. No one interrupted the deputant. I think I have a right to ask him those questions.

The Chair (Mr. Grant Crack): Thank you, Mr. Yakabuski. To the point of order, I would ask that Mr. Yakabuski refer his questions towards Bill 112.

Mr. John Yakabuski: I would refer to the presentation by the deputant, and I would hope that he would be allowed to answer.

Do you believe that most members of the Liberal caucus are opposed to this sale?

Mr. Smokey Thomas: Yes, I do; from distant history and from recent history.

Mr. John Yakabuski: So this is cabinet-driven to salvage the financial mess that they’re in?

Mr. Smokey Thomas: Yes, I believe so. Deb Matthews told me they’re looking for every nickel they can find and we ought not get in their way: words right to

me directly in a meeting with them. They want every nickel they can find to try to balance the books, and I'd say that they're making a lot of bad decisions; and this is an epic bad decision.

The Chair (Mr. Grant Crack): Thank you very much.

Mr. John Yakabuski: Thank you very much for—

The Chair (Mr. Grant Crack): Pass it over to Mr. Tabuns, please.

Mr. Peter Tabuns: Smokey, thanks for coming here today. We appreciate you contributing a few words to the debate that we're having.

Perhaps you could speak to the fact that I don't see this bill actually substantially increasing the control of the OEB to rein in any excess with Hydro One now that it's going to be privatized.

Mr. Smokey Thomas: No, I don't think it does that at all. We think it's window dressing, and that it doesn't do anything to substantially protect the customer.

I do like the fact that it gets rid of that door-to-door sales pitch, right? They're annoying if nothing else, and have hornswoggled a lot of people. I applaud that part of the bill. Randy, you had a thought to go further on that: to perhaps out-and-out outlaw all of those contracts. Just make them get rid of those contracts that people signed at the door, because nobody has ever saved money on them.

I actually made the mistake of signing one when they first came out, and oh boy—anyway, I got out of it as soon as possible. I had a heck of a time getting out of it.

Mr. Peter Tabuns: Yes, most people do. Randy?

Mr. Randy Robinson: I'll just add, on the Ontario Energy Board, that what we're saying here today about Bill 112 is that this is an opportunity to strengthen the energy board, because we've seen that with the utilities coming forward with new ideas for increasing costs, the energy board really has very seldom been able to contain those, which is why we see prices going up and up. So what we're proposing, if we're going to have a privatized Hydro One, which is the biggest piece that's being privatized right now—there are many other privatized pieces—is that this legislation should be amended so that it specifically says that if there are tax benefits that this company receives or if there are cost savings that they achieve, those actually should go either back into strengthening the electricity system or reducing rates for consumers. That's our amendment that speaks directly to Bill 112, which is apparently about protecting consumers.

Mr. Peter Tabuns: I can see the logic of the amendment that you're putting forward. You don't seem to have a lot of confidence, though, that the OEB will actually be able to contain the actions of a privatized Hydro One. Are you worried about regulatory capture—that over time the regulator will come to be a servant of the industry rather than in any way a check on it?

Mr. Smokey Robinson: I think any reasonable person who reads this would draw that conclusion.

Mr. Peter Tabuns: I have no further questions. Thank you very much.

The Chair (Mr. Grant Crack): We shall move to the government. Mr. Delaney.

Mr. Bob Delaney: Are you familiar with the Society of Energy Professionals?

Mr. Smokey Robinson: Yes.

Mr. Bob Delaney: Are you familiar with the Power Workers' Union?

Mr. Smokey Robinson: Yes.

Mr. Bob Delaney: How do you reconcile the fact that those two collective bargaining units are fully in support of the government's plan to partly privatize—

Mr. John Yakabuski: Point of order, Chair.

The Chair (Mr. Grant Crack): Okay, Mr. Delaney, point of order for Mr. Yakabuski.

Mr. John Yakabuski: I want to respect Mr. Delaney's freedom to interrupt us on a point of order, that we're not talking about the bill, but then he wants to do exactly that—exactly that. Bob, if you want to—

Mr. Bob Delaney: If the member opened the door and the Chair let him walk through it, then I am perfectly happy to take the same liberties.

Mr. John Yakabuski: Oh, so it's okay if you want to do it—

The Chair (Mr. Grant Crack): Okay, order, please.

Mr. John Yakabuski: So it's not a matter of principle; it's a matter of politics.

The Chair (Mr. Grant Crack): Mr. Yakabuski, through the Chair.

Mr. John Yakabuski: Pardon me, Chair. Sorry.

The Chair (Mr. Grant Crack): Thank you.

Mr. Bob Delaney: Thank you, Chair.

The Chair (Mr. Grant Crack): Mr. Delaney, on the point of order from Mr. Yakabuski, I would remind you to refer to Bill 112.

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Mr. Bob Delaney: How do you reconcile that the Power Workers' Union and the Society of Energy Professionals fully support the government's measures?

Mr. Smokey Thomas: Well, they got money.

Mr. Bob Delaney: They got money?

Mr. Smokey Thomas: Well, they're getting shares in the deal, right? So they get a piece of the action. I read in the paper—don't know if it's true, but I read in the paper—that they're being loaned money so that they can buy more shares. I guess that's the price of—

Mr. Bob Delaney: Are you asserting that something either illegal or improper is taking place?

Mr. Smokey Thomas: No, and don't try to put words my mouth there, Bob. You know better than that.

Mr. Bob Delaney: Are you asserting that something either illegal or improper is taking place?

Mr. Smokey Thomas: No, not at all. You asked me what I thought. I answered.

They signed a collective agreement that gives them shares; that's their right. I read in the Globe, I believe it was, that they're going to be loaned money to buy more shares, so of course, I guess, that's what prompted their support of the deal.

Mr. Bob Delaney: Do you believe that the Ontario Securities Commission's enforcement procedures have teeth, yes or no?

Mr. Smokey Thomas: Which?

Mr. Bob Delaney: Do you believe that the enforcement procedures of the Ontario Securities Commission have teeth, yes or no?

Mr. Smokey Thomas: I really don't know. I don't know that much about the Ontario Securities Commission.

Mr. Bob Delaney: Okay. You've made an assertion that someone has told government caucus members what to think about public policy matters. Would you please identify this person?

Mr. Smokey Thomas: I'll ask them first.

I will tell you what they were told. They were told—

Mr. Bob Delaney: In other words, there is no person.

When was such an edict issued? Apparently, such an edict was issued. Would you please tell me when it was issued?

Interjections.

The Chair (Mr. Grant Crack): Order. Please, order.

Mr. Smokey Thomas: Bob, you're grasping at straws. I'm not going to tell you. I will tell you that when people went in to lobby the government on various issues, our people were told by some MPPs, "Well, we were told not to meet with you, but I'm going to meet with you anyway." I'm not going to burn those people. If you really want to know, you can ask me later. Perhaps I'll tell you and perhaps I won't.

Mr. Bob Delaney: Thank you, Chair. Apparently, there was no edict issued. There was no person who said anything and there was no such event. As well, the gentleman has passed comment on—

Interjections.

The Chair (Mr. Grant Crack): Order. Your time is up.

Mr. Smokey Thomas: That's the ultimate act of desperation, Bob. That's all I've got to say—

The Chair (Mr. Grant Crack): Thank you very much, gentlemen.

Mr. Smokey Thomas: Maybe this gets me out of the P3 conference today, because I asked a question—

The Chair (Mr. Grant Crack): Thank you. We appreciate you coming before committee this afternoon.

ELECTRICAL CONTRACTORS ASSOCIATION OF ONTARIO

The Chair (Mr. Grant Crack): Next on the agenda we have the Electrical Contractors Association of Ontario. We welcome Mr. Freeman as a representative and Mr. Calabrese, the vice-president from Black and McDonald. We welcome you both, gentlemen. Perhaps it won't be as lively as the last one, but you are the last deputant for the day, so enjoy. You have five minutes.

Mr. Aaron Freeman: Thank you so much, Mr. Chair, for the opportunity to appear on this bill. We would like to thank the standing committee for the opportunity to

speak. We will be confining our remarks to sections 15 and 16 of the bill. I will be delivering these remarks on behalf of Jeff Koller, who is the executive director of the ECAO, who on short notice, unfortunately, was unable to make this appearance.

Section 15 creates an exemption mechanism to allow LDCs, under what are called "special circumstances" in the bill, to enter markets that lie outside of their core regulated business. Section 16 would repeal section 73 of the OEB Act, which currently limits the types of business that a municipally owned LDC affiliate can undertake.

I'll be speaking about how these provisions will increase costs to ratepayers while my colleague Peter Calabrese will speak on the related issue of how private enterprise is placed at an unfair disadvantage when LDCs enter these markets.

Currently, if an LDC wishes to enter a market such as street lighting, it must do so through a separate affiliate. These affiliates are governed by an affiliates code which requires the LDC to undertake separate bookkeeping and accounting. This is to protect ratepayers.

Street lighting is of particular interest to LDCs, and they have attempted to gain direct access to this market no fewer than seven times over the past decade. The OEB has clearly underscored the risks to ratepayers associated with granting LDCs unrestricted access to street lighting and other non-distribution activities. The OEB has clearly stated that there is no connection between street lighting and electricity distribution, and there is no legal, structural or practical reason for distributors to engage in this non-distribution activity.

I should note that while the affiliates code provides some accountability and transparency, these provisions fall well below the rigour of ratepayer protection measures in most other North American jurisdictions. A new study we're releasing today by PricewaterhouseCoopers examines five comparable jurisdictions from the US and Canada, including Alberta, which is known as the least-regulated jurisdiction in Canada. All of these jurisdictions require completely separate accounting when a utility enters an unregulated market like street lighting, and their standard for asset valuation is one of fair market value rather than what the PwC terms the less stringent standard in Ontario, which is generally the fully allocated cost standard.

Bill 112 would make Ontario's ratepayer protection regime even weaker, by creating a new mechanism for LDCs to apply for an outright exemption from the requirement to separate the books. The standard for this OEB exemption would be for "special circumstances," a term that is left completely undefined in the act.

According to the PwC study, sections 15 and 16 of Bill 112 would have the following impact:

"The internalization of unregulated services would lead to an effective relaxation of the rules governing transfer pricing between a local distribution company and its affiliates that conduct unregulated services. This may lead to an over-allocation of costs to the regulated service and/or an over-allocation of revenues and income to the

unregulated services.” This is the important part, and the less technical part. It says, “Should this happen, it would result in additional cost burdens being placed on ratepayers and raise the possibility for local distribution companies to either engage in predatory pricing or generate excess profits.”

The PwC study estimates the potential cost to ratepayers of these sections of the act to represent a rate increase of up to 1.9% in addition to recent and projected rate increases. In dollar terms, this amounts to an overall cost to consumers of up to \$304 million.

To avoid these rate increases, and the unfair market practices that cause them, our recommendation to the committee is to vote down sections 15 and 16 of the bill at clause-by-clause. These provisions are not consequential to other sections, and can easily be severed from the rest of the bill.

I would now like to invite my colleague to add a minute on some of the market impacts of these provisions.

Mr. Peter Calabrese: Thank you. Just to echo the comments of my colleague, thank you for allowing us to appear before this committee. I would just like to say at the outset that my comments are on behalf of the ECAO and no contractor in particular.

From our point of view as electrical contractors, our concern with these provisions of the bill is that it could place existing electrical contractors at an unfair disadvantage in a competitive market. As line contractors, in particular, we have a lot of capital invested in our assets to perform the work, such as line work, street lighting work etc., that we have had to gain over the years. Allowing a public utility—an LDC—to become a direct competitor, when they already have these assets that were funded by the rate base, would definitely put them at a cost advantage. They also have other advantages over us, which would be—just their name and, in the eyes of the consumer, they may have more credibility than a small contractor whom the consumer might not know.

From that point of view, as contractors in private business, we welcome good competition. We’re not afraid of it. We endorse it, but what we don’t want is unfair competition, where there could be some subsidy from the regulated side of the business to the non-regulated side of the business.

The other point that I’d like to make as a ratepayer is that in the construction business, there’s always a lot of risk. We take on contracts on a daily basis where we put our company’s assets at risk. In the case of a loss on a contract, my question would be: How does that get reflected to the rate base, if something goes wrong on a contract and it then negatively impacts the LDC?

The Chair (Mr. Grant Crack): Okay. Thank you very much. I appreciate it. I gave you quite a bit of extra time.

We’ll start with Mr. Tabuns.

Mr. Peter Tabuns: Thanks, Mr. Freeman and Mr. Calabrese for your presentations.

I was curious about this section when I looked at it earlier today and before we had the first presentation. Is

street lighting really the issue that is being contested in this, or are there other electrical contracting or electrical construction or maintenance matters that are also being contested?

1630

Mr. Aaron Freeman: I can only speak to the past. In the past, it has really been about street lighting. That has been where most of the activity has been, and that’s where LDCs are on the record—it’s a matter of public record—that they want better direct access to these markets.

What we’ve said is, “No problem.” It’s no problem to use your various advantages, the competitive advantages that you have as a regulated monopoly—stable cash flow, a brand, all of those things—but you have to do it through an affiliate. The reason that’s important is that it provides a separation on the books, to make sure there are some safeguards, however inadequate, that the cross-subsidization doesn’t take place.

We have issues with that. We think that should be done with stricter standards, on a fair-market-value basis. Bring on the competition. Just make sure that there are safeguards around it. What we are saying is, don’t create a mechanism for them to skirt that and go directly through the LDC itself, where there are even fewer checks and balances to protect ratepayers.

Mr. Peter Tabuns: Okay. Before I leave this issue, though—street lighting is the bulk of the concern that your sector has, the ECAO?

Mr. Aaron Freeman: It has been in the past. We don’t know what other sectors LDCs want to get into.

Mr. Peter Calabrese: It could be line work. Distribution line work on private property, for instance, could become part of the work that they intend to pursue.

Mr. Peter Tabuns: Don’t the LDCs do their own line work now?

Mr. Peter Calabrese: Yes, they do. We’re talking about line work for other customers. For instance, if one LDC decides that they want to go into the business, and another LDC is contracting out the line work, then it could put us at an unfair disadvantage.

Mr. Peter Tabuns: Okay. Thank you.

The Chair (Mr. Grant Crack): We shall move to the government: Mr. Delaney.

Mr. Bob Delaney: Mr. Tabuns and I seem to be curious about some of the same things with yourselves and some of your predecessors—

Mr. Peter Tabuns: Or worried.

Mr. Bob Delaney: —or worried—concerned, interested; whatever word you choose.

You’ve spoken about street lighting. If I gather correctly from the thrust of your deputation and a similar one earlier, you’re talking about a shift in the nature of the market in which you’re now competing. Am I summarizing that correctly?

Mr. Aaron Freeman: There has been a lot of activity around street lighting in the past. The LDCs have made it a lobbying priority for them to gain greater access to that market and to have mechanisms, presumably like the one

in sections 15 and 16, that will enable them to have better access to that market.

I'm not sure if I answered your question, but—

Mr. Bob Delaney: Well, not quite. Maybe neither of us correctly grasps what we're trying to explore here.

As the market continues to evolve forward, we're likely to see, for example, integration in commercial, institutional and residential settings of renewable energy—probably principally solar—along with, in years to come, storage batteries that would allow a fundamental shift in the nature in which power is consumed by the residential, institutional and commercial customer.

Looking forward rather than backward, do you have any concerns in this area, relative to what is being expressed in the bill?

Mr. Aaron Freeman: Our concern would mainly be around when an LDC wishes to enter those markets that you're talking about. If it goes beyond their core business, their regulated business, which is distribution, they should be required to have safeguards around their activity, to ensure that ratepayers are protected, that there are separate books, that the valuation of assets is done properly, through correct standards, and that there is a fair marketplace to compete in, so that private actors can compete on an equal footing. Otherwise, you're going to end up with higher prices, and it's really the ratepayers who are going to need to bear the brunt of that.

Mr. Bob Delaney: Okay. I now think I get better the point that you were trying to make. Thank you, Chair.

The Chair (Mr. Grant Crack): We shall have the member from Nipissing, Mr. Yakabuski—the final of the day.

Mr. John Yakabuski: So we're unlimited in time, then, I guess?

The Chair (Mr. Grant Crack): For you, sir, I'll consider that.

Mr. John Yakabuski: Just so I can get this—your concerns are very similar to the Ontario Electrical League's, that your members are going to be affected significantly by this change, should it be enacted.

My question is, were you contacted prior to the tabling of this bill? Were you contacted by the ministry to say, "Look, this is what we're planning to do. We know this is of significant interest to you. We know"—as you say, the OEB has ruled on it in the past. Were you contacted by the ministry to be briefed that this significant change, and how it might affect you and your members, was coming forward?

Mr. Aaron Freeman: We were not. I would say that when we contacted the ministry and the minister's office about this, it became pretty apparent that they didn't see the impact that it would have on our sector in this way, and that's why we brought it to their attention.

Mr. John Yakabuski: Have they indicated that they're amenable to amending the legislation?

Mr. Aaron Freeman: No, they're not.

Mr. John Yakabuski: They've indicated they're not?

Mr. Aaron Freeman: Correct.

Mr. John Yakabuski: So they weren't aware of the impact. You've made them aware of the impact. They've said, "Go fly a kite into the electrical wires."

Mr. Aaron Freeman: Not in those words.

Mr. John Yakabuski: No, but as much—

Mr. Aaron Freeman: I don't want to put words in their mouth, but they would probably say that they have a different view of how this will play out.

Mr. John Yakabuski: So they weren't aware of it, but now they have a different view. Really, you've been able to make no progress with the ministry on this matter.

Mr. Aaron Freeman: I would say they gave us a hearing but, no, we've made no progress in addressing this problem.

Mr. John Yakabuski: What kind of impact, do you think, in dollars and cents and jobs numbers—have you given it some thought, how this may impact your members, and to what extent, across the province and in the 71 LDCs, or whatever it is?

Mr. Aaron Freeman: According to PricewaterhouseCoopers, it would add up to \$304 million to the rate base. It's a cost to ratepayers.

Mr. John Yakabuski: But what impact will that have on your members?

Mr. Aaron Freeman: We can only speak to that anecdotally. I don't know if—

Mr. Peter Calabrese: Yes, we haven't really looked at that with any—

Mr. Aaron Freeman: Yes. Anecdotally, we can certainly provide you with instances where we think there has been an unfair intrusion into the private marketplace without adequate accountability standards to ensure that ratepayers are protected and that the private market is protected.

Mr. John Yakabuski: So you feel that it's an unfair marketplace. The municipalities in each of those own the streetlights, but you feel the LDC will have a completely unfair advantage with regard to you in being able to get those contracts for replacement, repair etc.

Mr. Aaron Freeman: That unfair advantage already exists. The affiliates code is not a rigorous standard. We did a jurisdictional scan of other jurisdictions in North America. We weren't able to find anyone that used the same standards as Ontario. They were all stronger, and they virtually all used fair market value—separate books; a firewall between the two operations—and that makes sense, because you've got to regulate it in an unregulated market, both being controlled by the same entity, regulated activity and unregulated activity. So you need those safeguards.

All other jurisdictions that we looked at—and some of them are canvassed in the PwC study—demonstrate that they use a much stricter standard of fair market value as opposed to the Ontario standard, which is known as the fully allocated cost. It's a weaker standard that we believe permits marginal cost pricing.

If an LDC has a bucket truck lying in its parking lot, underutilized—which I think should be a concern, if they're not optimizing their assets—it can go and service street lighting. Essentially, you just have to count on the

books—the LDC would just have to count the marginal cost of that, which would be gas, even though there is a schedule that exists at MTO for them to follow in terms of how to allocate that asset, and you incorporate the amortized cost of the asset into that cost. That schedule exists. It's very easy to follow. They choose not to, and we're concerned that this opens the door for them to do that with even fewer safeguards.

The Chair (Mr. Grant Crack): Okay. Thank you very much. I really appreciate that.

Mr. John Yakabuski: I appreciate your comments in clarifying that. Thank you very much.

The Chair (Mr. Grant Crack): Thank you very much. I thank you, gentlemen, for coming before our committee this afternoon. It's much appreciated.

I'd just like to remind members of the committee that there are no more scheduled delegations before our committee today and/or for Wednesday, but the deadline for filing amendments will be noon on Thursday, November 5.

Mr. Peter Tabuns: There are no other deputations, no other presentations?

The Chair (Mr. Grant Crack): There are no other presentations.

Mr. Peter Tabuns: Okay.

The Chair (Mr. Grant Crack): I'd like to thank the members for their good work this afternoon. I want you to have a great evening. We'll see you soon.

This meeting is adjourned.

The committee adjourned at 1640.

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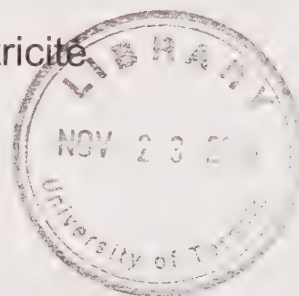
Lundi 16 novembre 2015

Standing Committee on General Government

Strengthening Consumer
Protection and Electricity
System Oversight Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015 pour renforcer
la protection des consommateurs
et la surveillance
du réseau d'électricité



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 16 November 2015

Lundi 16 novembre 2015

*The committee met at 1401 in committee room 2.*STRENGTHENING CONSUMER
PROTECTION AND ELECTRICITY
SYSTEM OVERSIGHT ACT, 2015LOI DE 2015 POUR RENFORCER
LA PROTECTION DES CONSOMMATEURS
ET LA SURVEILLANCE
DU RÉSEAU D'ÉLECTRICITÉ

Consideration of the following bill:

Bill 112, An Act to amend the Energy Consumer Protection Act, 2010 and the Ontario Energy Board Act, 1998 / Projet de loi 112, Loi modifiant la Loi de 2010 sur la protection des consommateurs d'énergie et la Loi de 1998 sur la Commission de l'énergie de l'Ontario.

The Chair (Mr. Grant Crack): Good afternoon, everyone. I'd like to call the meeting of the Standing Committee on General Government to order. I'd like to welcome all members of the committee, the Clerk's office, legislative counsel, Hansard and everyone else here this afternoon.

We're here to deal with clause-by-clause consideration of Bill 112, An Act to amend the Energy Consumer Protection Act, 2010 and the Ontario Energy Board Act, 1998.

Are there any comments or questions prior to commencing clause-by-clause consideration?

There being none, I would like to remind the members that we are on an order from the House. Of course, we're authorized to meet today and Wednesday for the purpose of clause-by-clause consideration. However, "on Monday, November 16, 2015, at 5 p.m., those amendments which have not yet been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. At this time, the Chair shall allow one 20-minute waiting period, pursuant to standing order 129(a)."

Welcome, Mr. Yakabuski.

Mr. John Yakabuski: Good afternoon, Chair.

The Chair (Mr. Grant Crack): Good afternoon. We shall start with section 1.

Interjection.

The Chair (Mr. Grant Crack): A point of order? A point of clarification?

Ms. Ann Hoggarth: Clarification: Did you say by 5 o'clock or by 4 o'clock?

The Chair (Mr. Grant Crack): Five p.m. Any amendments that are not moved shall be deemed to have been moved.

Mr. John Yakabuski: That's 5 on Wednesday?

The Chair (Mr. Grant Crack): Five p.m. today.

Mr. John Yakabuski: Today. Okay.

The Chair (Mr. Grant Crack): We are going to commence with section 1. There are no amendments. Shall section 1 carry?

Those in favour? Those opposed? Section 1 is carried.

We shall move to section 2. We have NDP motion number 1. I would ask Mr. Tabuns to read it into the record.

Mr. Peter Tabuns: I move that sections 9.1 and 9.2 of the Energy Consumer Protection Act, 2010, as set out in section 2 of the bill, be struck out and the following substituted:

"Door-to-door sales, marketing

"9.1 No supplier shall,

"(a) sell or offer to sell electricity or gas to a consumer in person at the consumer's home;

"(b) advertise or market the sale of electricity or gas to a consumer in person at the consumer's home; or

"(c) cause a salesperson to undertake an activity referred to in clause (a) or (b).

"Contract void

"9.2 A contract that is entered into as a result of a contravention of section 9.1 is deemed to be void in accordance with section 16."

The Chair (Mr. Grant Crack): Discussion?

Mr. Peter Tabuns: Chair, we've been dealing with this issue for a number of years. I was around for the debate on the Energy Consumer Protection Act in 2010. We said at the time that the act didn't go far enough: that these sales have to end, that they serve no useful purpose to the public. We believe there is an opportunity today to end this practice. I believe that the committee should support this amendment.

The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney.

Mr. Bob Delaney: The government will be voting against this amendment. The Ontario Energy Board's report on the effectiveness of the Energy Consumer Protection Act recommended banning door-to-door sales only, and we feel that there would be a concern regarding

freedom-of-expression concerns under the charter in this case.

The Chair (Mr. Grant Crack): Thank you. Further discussion?

Mr. Peter Tabuns: I'll just ask for a recorded vote when we get to the vote.

The Chair (Mr. Grant Crack): Any further discussion? There has been a request for a recorded vote, so I shall call for the vote.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Kiwala.

The Chair (Mr. Grant Crack): I declare NDP motion number 1 defeated.

We shall move to PC motion number 2, and I shall ask Mr. Yakabuski to read it into the record, please.

Mr. John Yakabuski: I move that section 9.3 of the Energy Consumer Protection Act, 2010, as set out in section 2 of the bill, be amended by striking out "consumers" wherever it appears and substituting in each case "residential consumers".

The Chair (Mr. Grant Crack): Any further discussion? Mr. Delaney.

Mr. Bob Delaney: The government will not be supporting this motion. The Ministry of Energy has accepted the Ontario Energy Board's recommendation to set rules regarding remuneration, as put forward in its report *Consumers Come First: A Report of the Ontario Energy Board on the Effectiveness of Part II of the Energy Consumer Protection Act, 2010*. The goal of the Energy Consumer Protection Act is to ensure that low-volume consumers, both residential and small business, are protected from aggressive and unfair sales tactics.

The Chair (Mr. Grant Crack): Further discussion? Mr. Yakabuski.

Mr. John Yakabuski: Well, I'm disappointed that the government is not going to support this. They don't tell any other business how to remunerate their employees, and I think it's an overreach for them to be doing it in this industry.

The bill accomplishes what we support, which is the ending of the door-to-door sales. How those people are remunerated—I guess I would ask, what is the next industry on the government's agenda with respect to commission sales? Because if it's wrong for one industry, then it's wrong.

So I wonder when you'll be coming out with the additional legislation. My guess is never, because you know it's wrong to try to determine how an employee should be remunerated by their employer. I would suggest you won't be coming out with any legislation and, therefore, you shouldn't preclude one industry from remunerating their employees in this fashion. However, I can count and

recognize that the government will strike down this amendment. I'm disappointed.

The Chair (Mr. Grant Crack): Further discussion?

There being none, I shall call for the vote. Those in favour of PC motion number 2? Those opposed? I declare PC motion number 2 defeated.

We shall move to PC motion number 3, which is an amendment to section 2, section 9.3 of the Energy Consumer Protection Act, 2010. Mr. McDonnell.

Mr. Jim McDonnell: I move that section 9.3 of the Energy Consumer Protection Act, 2010, as set out in section 2 of the bill, be struck out.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion?

There being none—

Mr. John Yakabuski: Well, no—sorry. I thought the Liberals would—well, we understand this—

The Chair (Mr. Grant Crack): Mr. Yakabuski.

Mr. John Yakabuski: This is similar to the last amendment. I guess, if the other one didn't pass, we know this one's not going to pass. But once again, I'm disappointed that the government has determined that they will decide how one industry remunerates their employees while continuing to be moot on other industries. Thank you.

The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney.

Mr. Bob Delaney: The government's feeling is that we wish to reduce the incentive to engage in aggressive sales tactics.

The Chair (Mr. Grant Crack): Thank you. Further discussion?

Mr. John Yakabuski: Do they believe that—

The Chair (Mr. Grant Crack): Mr. Yakabuski.

Mr. John Yakabuski: Sorry. Thank you, Chair. Does the parliamentary assistant believe that there are no aggressive sales tactics in any other commission-related business?

Mr. Bob Delaney: Outside the scope of the bill.

1410

Mr. John Yakabuski: When it's convenient, eh? When it's convenient.

The Chair (Mr. Grant Crack): Through the Chair, please.

Mr. McDonnell.

Mr. Jim McDonnell: The purpose of this amendment is to allow commission sales when you're talking about businesses. It's the basis of sales. In business, they have time. They expect to be visited by their sales reps. If they can't pay them by commission, it changes how the whole industry works.

It's been an approved method in pharmaceuticals, farm machinery, you name it. So why is it different for this group here? We agree with the door-to-door sales, but again, this is talking about businesses.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call for the vote on PC motion number 3. Those in favour? Those opposed? I declare PC motion number 3 defeated.

We shall move to NDP motion number 4, which is an amendment to section 2. Mr. Tabuns.

Mr. Peter Tabuns: I move that section 2 of the bill be struck out and the following substituted:

"2. The act is amended by adding the following section:

"Prohibition on sales, marketing

"9.1(1) No supplier shall,

"(a) sell or offer to sell electricity or gas to a consumer for use in the consumer's home;

"(b) advertise or market the sale of electricity or gas to a consumer for use in the consumer's home; or

"(c) cause a salesperson to undertake an activity referred to in clause (a) or (b).

"Contract void

"(2) A contract that is entered into as a result of a contravention of subsection (1) is deemed to be void in accordance with section 16."

Chair, I see that the government didn't vote for my amendments that would end this whole retail electricity sector entirely with regard to residential customers. I'm suggesting that we restrict marketing activities so that people are not drawn into a scheme which frankly benefits very few people in this province, if any at all, and which the Electricity Distributors Association has said adds hundreds of millions of dollars a year to people's electricity bills, with no benefit or gain.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Further discussion? Mr. Delaney.

Mr. Bob Delaney: I appreciate the comments made by my colleague, but the policy intent of the legislation is not to completely ban retail energy contracts for residential consumers. In the report I mentioned in my previous response, the OEB did not recommend a ban on retail contracts for residential consumers.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. Mr. Tabuns.

Mr. Peter Tabuns: I'll be brief. We went through this debate in 2010. The government at the time didn't recognize that it had to act far more strongly on this matter. It temporized. Five years later, we still have a substantial problem. Eventually, this whole sector will be eliminated because, like pyramid selling, it doesn't benefit the public.

I would like a recorded vote. I have nothing more to say on it.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Mr. Yakabuski.

Mr. John Yakabuski: I appreciate what Mr. Delaney has said, but ostensibly, by not agreeing with some of these amendments, you are doing exactly that.

At least I could say the third party, the NDP, is clear about their feelings on it. They want to ban the practice period, outright, full stop. You're trying to dance around the issue and do it by stealth and by death of a thousand cuts by taking out the ability to remunerate your employees by commission. That's one of the steps that you're taking, without having the courage to actually do

what the NDP are at least saying. I may not agree with them, but at least they have the courage to stand by it.

I just wanted to make sure that you understood that we certainly understand what's going on here. The government just doesn't have the fortitude to do what they want to do, so they're going to do it by the back door because they haven't got the guts to do it by the front door.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, there has been a request by Mr. Tabuns for a recorded vote, so I shall call the vote.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Kiwala.

The Chair (Mr. Grant Crack): I declare NDP motion number 4 defeated.

As a result, there are no amendments to section 2. Is there any further discussion on section 2 in its entirety? Mr. Tabuns.

Mr. Peter Tabuns: No, I'll just vote against. Show me as voting against.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Then I shall call for the vote.

Shall section 2 carry? Those in favour? Those opposed? I declare section 2 carried.

We shall move to section 3. There are no proposed amendments. Any discussion on section 3? There being none, I shall call the vote.

Shall section 3 carry? Those in favour? Any opposed? I declare section 3 carried.

We shall move to section 4. We have PC amendment number 5, which proposes a new subsection (0.1), new subsection 15(3.1), Energy Consumer Protection Act, 2010.

Mr. Yakabuski.

Mr. John Yakabuski: I move that section 4 of the bill be amended by adding the following subsection:

"(0.1) Section 15 of the act is amended by adding the following subsection:

"Internet agreement

"(3.1) A person may verify an Internet agreement within the meaning of part IV of the Consumer Protection Act, 2002 by using the online verification method established by the regulations."

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. Delaney.

Mr. Bob Delaney: We understand what it is that the member is proposing, and while the government will not be supporting this motion, one thing I think—

Mr. John Yakabuski: Surprise, surprise.

Mr. Bob Delaney: I'd like to just make a couple of points on it. The manner of verification is one that can be prescribed by regulations made under the Energy Con-

sumer Protection Act. In this case, appreciating the spirit within which the amendment is offered, a legislative amendment is not required, and indeed future regulatory amendments could allow for flexibility with respect to how verification occurs.

The Chair (Mr. Grant Crack): Mr. Yakabuski.

Mr. John Yakabuski: Well, if we were to codify it in this legislation, it would be there, not subject to the regulatory whims of the government. It would be part of the bill. What we're saying is that in this Internet age, it's really unnecessary to require a phone verification. It could be done by a survey between the parties that have agreed to a contract—that the verification could be done online. I think it's in keeping with—we're not suggesting in any way that if a person is unhappy with the terms of the contract—they can still have that contract voided in the time frame, but what is the necessity to contact by phone?

So many things are done online today. Mr. Delaney is the computer whiz here. He tells me things about computers; I don't even understand the words he's using. He's a genius when it comes to computers. I would ask him, does he go to the bank or does he do his banking via the Internet? If you trust those people to deal with your millions of dollars, surely to goodness you can trust the Internet to deal with a verification as to whether or not you want to proceed with the contract. It's not complicated. It's computers. It's the Internet. It's the new age. Get with the program.

The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney.

Mr. Bob Delaney: Accepting the kind comments made by my colleague—then let's put it into software speak, Chair. The manner of verification is not what would be called a showstopper in this particular legislation. Indeed, in its report on the effectiveness of the Energy Consumer Protection Act, the Ontario Energy Board noted that “verification is an effective consumer protection tool” and recommended that the “verification of all contracts, regardless of the method or circumstances of enrolment, would best ensure that all consumers are on a level playing field in terms of consumer protection,” all of which is to say that as the technology evolves, the ability of the legislation to be able to respond should be equally quick. Hence, we feel that this particular measure is best served in regulation and not by cementing it into legislation.

1420

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. Mr. Yakabuski.

Mr. John Yakabuski: I'm not going to belabour this for weeks because I know the directions you have from the corner office, and you're not allowed to deviate from them—even if we have a conversation over the Internet. For those people who do not have access to online verification, the telephone verification still applies, but it simply allows people who willingly and voluntarily wish to verify their contracts by new technology, like new 20 years ago—they can still do that. We're just asking for that to be dealt with in legislation.

Turn off your speaker if it's hooked up to the corner office. Just think for yourself for a minute and don't pay attention to what they're saying up there in the corner. Let's just do the right thing.

The Chair (Mr. Grant Crack): Further discussion?

Mr. Bob Delaney: I think we're there, Chair.

The Chair (Mr. Grant Crack): There being none, I shall call the vote on PC motion—

Mr. John Yakabuski: We'll have a recorded vote on that.

The Chair (Mr. Grant Crack): —number 5, and there has been a request for a recorded vote.

Ayes

McDonell, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Kiwala, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion number 5 defeated.

We shall move to PC motion number 6, which is an amendment to subsection 4(1), subsection 15(4) of the Energy Consumer Protection Act, 2010.

Mr. Jim McDonell: I move that subsection 4(1) of the bill be struck out.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call for the vote. Those in favour of PC motion number 6?

Mr. John Yakabuski: We would like a recorded vote.

The Chair (Mr. Grant Crack): It's a little bit too late.

Mr. John Yakabuski: Oh, come on now.

The Chair (Mr. Grant Crack): Everybody's hands are up, Mr. Yakabuski. I would have gladly, as you well know, respectfully entertained it, but when all the hands are up, I've already asked.

Mr. John Yakabuski: Okay.

The Chair (Mr. Grant Crack): Those in favour? Those opposed?

Mr. John Yakabuski: Oh, my God. I was—okay. Let me just send a message to the corner office. Thank you very much for using common sense—

The Chair (Mr. Grant Crack): Order, please.

Those opposed? There are none, so I declare PC motion number 6 carried.

Mr. John Yakabuski: We may have to call for a recess to get my heart back into shape here.

The Chair (Mr. Grant Crack): You are entitled to a recess.

We have one amendment to section 4. Is there any further discussion on section 4, as amended?

There being none, shall section 4, as amended, carry? Those in favour?

Mr. Ralph Armstrong: Sir, may I speak?

Interjection: You're out of order.

The Chair (Mr. Grant Crack): I apologize. We're in the middle of a vote—

Mr. Bob Delaney: Chair, is there a point that legislative counsel needed to make?

The Chair (Mr. Grant Crack): We're in the middle of a vote, so we need to respect that particular process. If there is a request—

Mr. John Yakabuski: Well, could we agree to—

The Chair (Mr. Grant Crack): I'm in the middle of a vote. Unfortunately, the Chair has to make a ruling. So we will allow for the vote to carry, and then if there's a request after, then I will entertain that.

Mr. John Yakabuski: It might be too late.

The Chair (Mr. Grant Crack): So shall section 4, as amended, carry? I had asked for those in favour, and there were hands up. Any opposed? I declare section 4, as amended, carried.

Mr. Mike Colle: Point of order.

The Chair (Mr. Grant Crack): Point of order, Mr. Colle.

Mr. Mike Colle: Could we hear from the distinguished legislative counsel, Mr. Ralph Armstrong?

Mr. John Yakabuski: Only if it's not already too late.

The Chair (Mr. Grant Crack): There has been a request, and I'm sure the committee would understand the fact that I would have certainly entertained that, but once you're in the middle of a vote, it's not feasible.

Mr. Armstrong, legislative counsel.

Mr. Ralph Armstrong: It's carried now, but the committee voted against subsection 4(1) of section 4. Subsection 4(2) is only a transitional provision about 4(1). So it would have made logical sense, having struck down 4(1) to vote section 4 down in its entirety, so there would no longer be a section 4. We now have a reference to a subsection that the committee's voted against.

Mr. Mike Colle: Do you want to explain that in English, please?

Mr. Ralph Armstrong: I'm sorry. If I may proceed.

The Chair (Mr. Grant Crack): Yes.

Mr. Ralph Armstrong: The committee voted for the motion to strike out subsection 4(1) of the bill.

Mr. John Yakabuski: That was motion 6, was it?

Mr. Ralph Armstrong: Yes.

The Chair (Mr. Grant Crack): Yes.

Mr. Ralph Armstrong: That leaves what was subsection 4(2) of the bill: 4(2) is only there to deal with the consequences of passing 4(1). So if section 4, as amended, carries, as the committee has voted, there's now a section that is only about dealing with a provision—

Mr. John Yakabuski: —that has already been voted out.

Mr. Ralph Armstrong: Yes. So I would have asked the committee's indulgence just to vote down section 4 in its entirety.

Mr. Bob Delaney: Chair?

The Chair (Mr. Grant Crack): Yes, Mr. Delaney, on a point of order.

Mr. Bob Delaney: May I ask for unanimous consent to reopen consideration of section 4?

The Chair (Mr. Grant Crack): That is possible. Mr. Delaney has requested unanimous consent to reopen section 4, which was amended. Do we have unanimous consent?

Mr. John Yakabuski: Yes, but then we might have some questions for Mr. Armstrong.

The Chair (Mr. Grant Crack): If there is none opposed, then we shall reopen section 4, which was amended.

Mr. John Yakabuski: Okay.

Mr. Mike Colle: Agreed.

Mr. Bob Delaney: Wait a minute, now. Would the counsel, as we consider section 4, as amended, please lay out for the committee the options, given his observations of a few moments ago?

Mr. Ralph Armstrong: I would suggest—and I turn to the procedural Clerk to make sure I'm right, that if the committee would see its way clear to voting against section 4, as amended, that would mean that all of section 4 disappears. This bill would go back to the House with section 4 removed in its entirety. That way, it would not leave the logical problem of having only 4(2), which is only there, as I said, to grandfather 4(1).

Voting against the section, as amended, doesn't resurrect 4(1); it would simply have the effect—and the Clerk is nodding—that section 4 would be gone in its entirety, and this provision would be gone in its entirety.

Yes, sir—oh, sorry, Chair.

The Chair (Mr. Grant Crack): Mr. Yakabuski.

Mr. John Yakabuski: Just to clarify, it would not have any effect on the legislation having been changed to reflect our amendment, which was carried.

Mr. Ralph Armstrong: It would have the effect of the provision—

Mr. John Yakabuski: Going back to the—

Mr. Ralph Armstrong: It would not go back. Section 4 would be gone. It would not resurrect the subsection that you—

Mr. John Yakabuski: —which brought it to the 20 days.

Mr. Ralph Armstrong: Yes. This is a result of the success of your motion, sir.

Mr. John Yakabuski: Yes. The 10-day period would then exist.

Mr. Bob Delaney: You get what you asked for.

Mr. John Yakabuski: Yes. I just want to clarify that, to the legislative counsel.

Mr. Ralph Armstrong: I'm here to serve the committee—

Mr. John Yakabuski: You see, his name says "counsel." Yours just says "parliamentary assistant." I trust him.

Interjections.

The Chair (Mr. Grant Crack): Okay, order, please.

All members of the committee, further discussion? Mr. Tabuns.

Mr. Peter Tabuns: Just clarity, then, on the vote: The vote will be again on motion 6, and then a vote on 4 as a whole?

The Chair (Mr. Grant Crack): No. I had previously asked for a vote on section 4, as amended—shall it carry? It carried. There has been a request to reopen the entire section, which we've just had discussion on. I would now call, once again, because there has been a successful amendment: Shall section 4, as amended, carry? And then it's up to the privilege of the committee to make a decision on that.

Mr. John Yakabuski: So, just to clarify, we would then vote against that.

Mr. Ralph Armstrong: Yes. I would ask the committee's indulgence: When the call is made—"Shall section 4, as amended, carry?"—for no one to say yes and everyone to say no. It is, of course, the committee's decision, but I've explained the reasoning behind what I'm saying.

Mr. John Yakabuski: And would it amount to the same effect of what we've asked for?

Mr. Ralph Armstrong: It would actually increase what you've asked for, because if that isn't done, there'll be a reference in the act to the provision that you voted against that you won't have with this.

Mr. John Yakabuski: Right. Okay.

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: Is this kind of equivalent to saying it's out of order, basically?

The Chair (Mr. Grant Crack): I wouldn't say that it's out of order. The committee has the privilege to do whatever they like, but—

Mr. Jim McDonell: No, no. I'm just wondering because of previous—I've seen it where once an amendment went in, the next one was out of order, or something.

Mr. Bob Delaney: It would be more accurate, Jim, to say that the other clause is in fact stranded. It sits there without reference to anything.

Mr. Jim McDonell: Okay.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. John Yakabuski: It's sort of like half the stuff you guys do on that side of the House.

The Chair (Mr. Grant Crack): Mr. Yakabuski. Thank you.

Mr. John Yakabuski: Oh, I'm sorry. I thought my mike was off.

1430

The Chair (Mr. Grant Crack): Members of the committee had requested unanimous consent to reopen a section that had already been voted on. The section is now reopened, you've had discussion, so I shall call another vote following the discussion. Shall section 4, as amended, carry? Those in favour? Those opposed? I declare section 4, as amended, not carried, which is defeated.

That was quite interesting, members of the committee. Thank you for that experience.

We shall move to section 5. There is NDP amendment 7.

Mr. Peter Tabuns: I withdraw, Chair. Because earlier motions weren't passed, it's now redundant.

The Chair (Mr. Grant Crack): NDP motion 7 is withdrawn.

There are no amendments to section 5. Any discussion on section 5 in its entirety? There being none, shall section 5 carry? Those in favour? Those opposed? I declare section 5 carried.

We shall move to section 6. There is a PC motion number 8, which is an amendment to section 6, on section 17 of the Energy Consumer Protection Act, 2010. Mr. Yakabuski.

Mr. John Yakabuski: I am noting that the only amendment that was approved by the minions of the government was one that Mr. McDonell read, so this may be the last one I read. We'll see.

I move that section 6 of the bill be struck out and the following substituted:

"6. Subsection 17(1) of the act is amended by striking out the portion before paragraph 1 and substituting the following:

"Exception to s. 15(4)

"(1) Despite subsection 15(4), a person may verify a contract under subsection 15(2) as soon as it is delivered or provided to the consumer in accordance with section 13 but must still verify it no later than the 60th day following the day it was provided or delivered if the contract is one of the following:"

The Chair (Mr. Grant Crack): Any further discussion? Mr. Delaney.

Mr. Bob Delaney: Chair, the government is going to oppose this one. The Ontario Energy Board basically recommended that the cooling-off period be extended to 20 days. I'm a little puzzled as to where this other number came from.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Yakabuski.

Mr. John Yakabuski: This allows for the immediate verification of a contract if that's the choice of the consumer, but it also does allow them to cancel the contract within 60 days of receiving their first bill, meaning they're still protected.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote—

Mr. John Yakabuski: Recorded vote.

The Chair (Mr. Grant Crack): —on PC motion 8. There has been a request for a recorded vote.

Ayes

McDonell, Tabuns, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Kiwala.

The Chair (Mr. Grant Crack): I declare PC motion 8 defeated.

There are no amendments to section 6. Any further discussion on section 6 in its entirety? I shall call the vote on—

Interjections.

The Chair (Mr. Grant Crack): I'm just allowing a few seconds to ensure that everyone is up to speed.

Mr. John Yakabuski: Okay, very good. We're ready for a vote. Recorded.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote. Shall section 6 carry?

Ayes

Colle, Delaney, Dickson, Hoggarth, Kiwala, Tabuns.

Nays

McDonell, Yakabuski.

The Chair (Mr. Grant Crack): I declare section 6 carried.

We shall move to section 7. There is an—

Mr. Bob Delaney: I want to hear you say that section 6 succeeds.

The Chair (Mr. Grant Crack): No. Section 7: There's an NDP motion, number 9, which is an amendment to section 7, on subsection 19(1) of the Energy Consumer Protection Act, 2010. Mr. Tabuns.

Mr. Peter Tabuns: I move that section 7 of the bill be amended by striking out "until 20 days after" at the end and substituting "until 30 days after".

Our suggestion is that the customers who may, by mishap, sign these contracts have a longer time in which to opt out.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Delaney.

Mr. Bob Delaney: Chair, I think the proposals in the bill are even stronger. Under the proposed amendments in Bill 112, in regulatory proposal, consumers will have an extended period where no cancellation fees can be charged, and that's 30 days following two complete billing cycles; in other words, 90 days.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. Peter Tabuns: So you're voting against your section here?

Mr. Bob Delaney: I'm voting for what's in here.

The Chair (Mr. Grant Crack): There being no further discussion—

Mr. Peter Tabuns: I'd like a recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote on NDP motion number 9.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Kiwala, McDonell, Yakabuski.

Mr. John Yakabuski: How long do we have to hold our arms up? Till I get tired or—

The Chair (Mr. Grant Crack): I declare NDP motion number 9 defeated.

Just a reminder to committee members: If you wish to express an interest in the voting process, make sure that you provide the Clerk ample time to view your position.

Mr. John Yakabuski: Absolutely. I apologize for my cheekiness.

The Chair (Mr. Grant Crack): Apology accepted.

We shall move to NDP motion number 10, which is an amendment to add a new subsection 2 to subsection 19(3.1) of the Energy Consumer Protection Act, 2010. Mr. Tabuns.

Mr. Peter Tabuns: I move that section 7 of the bill be amended by adding the following subsection:

"(2) Section 19 of the act is amended by adding the following subsection:

"Same, fixed rate contracts

"(3.1) A consumer may, on 30 days' notice, cancel a contract for the provision of electricity or gas in the consumer's home at a fixed rate that was entered into on or after the day subsection 7(2) of the Strengthening Consumer Protection and Electricity System Oversight Act, 2015, comes into force and, for the purpose, the provisions of this act (other than section 20) and of the regulations that apply in respect of a cancellation under subsection (2) apply to a cancellation under this subsection."

Effectively, Chair, this allows people to cancel fixed-rate electricity or gas contracts that they sign from the date this act comes into force, without any limitation. It further strengthens the hand of consumers who may have been, in some way, pressured into or misled into signing a contract with these companies.

The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney.

Mr. Bob Delaney: Chair, the government has not gone so far as to allow cancellation at any time without notice. In fact, rules for cancellation fees are established in regulation rather than the legislation, for the same reason as discussed earlier. If circumstances change, you want to be able to amend them in regulation fairly quickly.

The government posted on the regulatory registry a proposal to reduce cancellation fees, as prescribed in regulation, and also to increase the cancellation period with no cancellation fees to 30 days following receipt of the second bill for both electricity and natural gas, as prescribed in regulation.

As I discussed earlier, what this means is that consumers will have an extended period where no cancellation fees can be charged, which is 30 days following two complete billing cycles; i.e. 30 plus 30 plus 30 equals 90.

The Chair (Mr. Grant Crack): Mr. Tabuns.

Mr. Peter Tabuns: I understand the government's rationale. I think it's continuing to defend a system that doesn't work for Ontarians and one that has to be let go of.

This strengthens the hand of consumers far beyond what the government has proposed. I would like a recorded vote when we get to this.

The Chair (Mr. Grant Crack): Is there any further discussion? There being none, I shall call for the vote. There has been a request for a recorded vote.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Kiwala, McDonell, Yakabuski.

The Chair (Mr. Grant Crack): I declare NDP motion number 10—

Interjection.

The Chair (Mr. Grant Crack): That arm sure goes high up into the air.

So NDP motion number 10 is defeated.

There are no amendments to section 7. Any further discussion on section 7 in its entirety? There being none—Mr. Delaney?

Mr. Bob Delaney: Chair, can we have about a three-minute recess before the vote?

The Chair (Mr. Grant Crack): Mr. Delaney has requested a three-minute recess prior to the vote. There has been an increase—

Interjections.

The Chair (Mr. Grant Crack): Prior to any vote, of course, there is the opportunity for a recess. There has been a request for three minutes; it has been up to five. Is the bidding process going to continue?

We have a request for a five-minute recess. Do we have unanimous consent? Yes? A five-minute recess, effective immediately.

The committee recessed from 1441 to 1446.

The Chair (Mr. Grant Crack): The five minutes' recess has finished.

We were dealing with section 7 in its entirety. There was no further discussion, so I shall call for—

Interjection.

The Chair (Mr. Grant Crack): Okay. Because there was unanimous consent for a recess, is there any further discussion on section 7? There being none, shall section 7 carry? Those in favour? Those opposed? Okay, that's clear. Section 7 is defeated. Lost.

We shall move to section 8. There is a PC motion number 11.

Mr. John Yakabuski: So the Liberals are voting against their own bill. You've got to get this straightened out here.

The Chair (Mr. Grant Crack): Order, please. The Chair—

Mr. Bob Delaney: I guess the corner office is going to be really mad at me, Yak.

The Chair (Mr. Grant Crack): Okay. We're dealing with PC motion number 11, members of the committee, on subsection 8(2). It's an amendment to subsection 35(3) of the Energy Consumer Protection Act, 2010. Mr. McDonell, please read in PC motion 11.

Mr. Jim McDonell: I move that subsection 8(2) of the bill be struck out and the following substituted—

Mr. John Yakabuski: No, no. We're withdrawing that amendment.

Mr. Jim McDonell: We're withdrawing it? Okay; withdraw.

Mr. Peter Tabuns: Number 11 is withdrawn?

Mr. John Yakabuski: Because of the failure of the government to recognize our previous amendments, this amendment is redundant.

The Chair (Mr. Grant Crack): So PC motion 11 has been withdrawn.

We shall move to PC motion number 12—

Mr. John Yakabuski: Withdrawn.

The Chair (Mr. Grant Crack): —which has also been withdrawn.

Mr. John Yakabuski: Same reasoning, Chair: The intransigence of the Liberals has caused us to withdraw it.

The Chair (Mr. Grant Crack): So we shall move to NDP motion number 13.

Mr. Peter Tabuns: It's withdrawn.

The Chair (Mr. Grant Crack): Mr. Tabuns has withdrawn NDP motion number 13.

We shall move to PC motion number 14.

Mr. John Yakabuski: Withdrawn.

The Chair (Mr. Grant Crack): Mr. Yakabuski has withdrawn PC motion number 14.

We shall deal with section 8 in its entirety. Any discussion on section 8? There being none, I shall call for the vote. Shall section 8 carry? I declare section 8 carried.

We shall move to section 9. There are no amendments. Any discussion on section 9 in its entirety? There being none, shall section 9 carry? I declare section 9 carried.

We will move to section 10, which is an NDP motion number 15, which amends section 10 by adding a new subsection, 4.4.1(3), to the Ontario Energy Board Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that section 4.4.1 of the Ontario Energy Board Act, 1998, as set out in section 10 of the bill, be amended by adding the following subsection:

“Processes under section 4.4

“(3) A process established under this section may supplement but shall not replace any process or part of a process established under section 4.4 with respect to consumers that is in force on the day section 10 of the Strengthening Consumer Protection and Electricity System Oversight Act, 2015 comes into force.”

Chair, this is a very substantial section in this act. Effectively, what we've had in the province of Ontario in the past is the ability for independent intervenors to come, challenge witnesses, challenge evidence before the OEB, and recover their costs from the OEB. It is not a process that is flawless, but it is one that allows for independence and rigorous cross-examination.

I'm very worried and my party is very worried that the section as written will allow the board and the government to eliminate independent intervenors and put in place someone who is paid by and responsible to the OEB to act as a consumer advocate. The board may do that; the government may do that. But it is critical that independent intervention is protected. Certainly those in the wider world who are being made aware of this potential elimination of independent intervention are extraordinarily troubled. So I urge the government to incorporate this amendment into this act.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Mr. Delaney.

Mr. Bob Delaney: I think, Chair, we may have a disagreement on the interpretation of various intervenor processes. The proposed motion would allow for new processes to be established for consumer advocacy but would prevent any new processes from replacing any existing processes for consumer advocacy established before the proposed amendments come into force. Let me just expand on that because that sounds like a bit of a mouthful.

The government does recommend voting against this motion because the proposed section 4.4.1 does not seek to replace existing consumer advocacy processes at the Ontario Energy Board. It's intended to serve a narrower purpose and require that the board establish processes by which the interests of consumers can be represented in proceedings before the board.

The current section 4.4 is broader and requires that the board establish processes by which all those with an interest in the electricity industry, including not only consumers but also distributors, generators and so on, may provide advice and recommendations.

Chair, it's our opinion that this proposal is unnecessarily restrictive to prescribe in legislation that any existing consumer advocacy processes should exist in perpetuity. Though this may not be what the member intends, it is in fact what would arise. The Ontario Energy Board is currently reviewing its intervenor processes in order to ensure that consumers are being adequately represented in OEB proceedings. So the long and the short of it is that we believe that the measures proposed in this bill actually say yes to the member better than the proposal that he has put forward.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion?

Mr. Peter Tabuns: Just to note first of all, I'll want a recorded vote.

I don't get any comfort from the member's statement. We will find out whether that is true or not. I've been watching the votes closely today. I have doubts that I will

get a majority, but I will say that action that cuts out independent intervenors will be met with great hostility on the part of those who are trying to come to grips with the problem of high and rising rates in Ontario. Should this member's statement be incorrect in understanding the cabinet's direction on this, it will be a huge disservice to the people of Ontario.

There may or may not be redundancy in the motion that I've put forward, but protection of an intervenor system, a system that allows independent bodies to come, question witnesses, test evidence and make arguments before a tribunal is critical. The member referred to the potential that this would—what would I say?—last in perpetuity. I have no idea whether it will last in perpetuity; laws get amended all the time. But at least at this point, we need to ensure that independent intervention is protected and is part of our process in reviewing rates in this province.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Mr. Delaney.

Mr. Bob Delaney: I take the member's points. Just in concluding, I would like to say that the proposed amendments enhance processes by which consumers may be represented in board processes, including through advocacy or other modes of representation, to give consumers a stronger voice in OEB hearings and proceedings. In summary, the bill is trying to do what the member has asked.

The Chair (Mr. Grant Crack): Further discussion? There being none, there has been a request for a recorded vote. I shall call for the vote.

Ayes

Tabuns.

Nays

Colle, Delaney, Hoggarth, Kiwala.

The Chair (Mr. Grant Crack): I declare NDP motion number 15 defeated.

We shall move to section 10 in its entirety. There are no amendments.

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote on section 10. I shall call for the vote.

Ayes

Colle, Delaney, Hoggarth, Kiwala.

Nays

Tabuns.

The Chair (Mr. Grant Crack): I declare section 10 carried.

We shall move to section 11, which is NDP motion number 16, which is an amendment to section 11. It's a new clause (d), subsection 58.1(2), Ontario Energy Board Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that subsection 58.1(2) of the Ontario Energy Board Act, 1998, as set out in section 11 of the bill, be amended by striking out "and" at the end of clause (b), by adding "and" at the end of clause (c) and by adding the following clause:

"(d) 98 per cent of the employees of the distributor and of its subsidiaries who perform functions relating to the ordinary course of business, such as general administration, information technology services, data management, records storage, billing and accounting, and customer service, perform those functions at that principal executive office or elsewhere in Ontario and are resident in Ontario."

Chair, if I may speak to this?

The Chair (Mr. Grant Crack): Mr. Tabuns.

Mr. Peter Tabuns: The government is engaged in privatizing Hydro One. It has been known for close to a decade now that the leadership of Hydro One has been interested in contracting out—not just contracting out, but offshoring—significant parts of Hydro One's operations. The definition that the government uses for "maintained in Ontario" would have applied very well to Hollinger, which was a very large press operation operating out of Toronto Street a number of years ago, but it is not exactly something that describes the work done by thousands of employees in back-office and day-to-day administration.

I would say that the definition of "Head office of distributor in Ontario" put forward by the government would allow very large-scale offshoring and I think would be a detriment to our economy and certainly a detriment to the morale of people who are trying to run our electricity system.

Keeping some parts of head office functions in Ontario is not a bad idea, but leaving all the rest vulnerable to offshoring is an extraordinarily bad idea. For that reason, we've put forward this amendment.

Sorry, last point: I would like a recorded vote.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Further discussion? Mr. Delaney.

Mr. Bob Delaney: Chair, the government won't be supporting this particular amendment. The proposed amendment, as currently drafted, would ensure that key personnel and records are in Ontario. The proposed amendment is the same as subsections 48.1(2) and (3) of the Electricity Act, 1998, which require that Hydro One maintain its head office in Ontario. If this proposed motion were to pass, Hydro One would be subject to different head office requirements under the OEB Act as a licensed distributor than it would be under the Electricity Act.

It's not at all clear where the 98% figure came from or indeed how it would be enforced. It would place burdensome—indeed, onerous; probably impossible—requirements on all distributors to provide detailed

personal information about all of their employees to the board.

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The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. Further discussion? Mr. Tabuns.

Mr. Peter Tabuns: I would just say, Chair, that since 1998 there have been very substantial—what can I say?—changes or advances in information technology that have allowed substantial offshoring of clerical, technical and managerial work. Certainly we've seen difficulties for companies that have seen functions offshored to India and China. I would say that the majority of people in Ontario find this prospect one that's very troubling, one that limits the career options for Ontarians. Requiring that the head office of Ontario distribution companies remain in Ontario, complete with all their functions, is a goal that I think is very defensible. Frankly, you've got 13-million-plus people in Ontario. Certainly one can find the workforce needed to do the work that has to be done here. In fact, if you start offshoring a lot of the work, you'll find a lot of unemployed Ontarians. So I would say that the government should be far more prescriptive and should in fact support this amendment.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Any further discussion?

Mr. Peter Tabuns: No. Recorded vote.

The Chair (Mr. Grant Crack): There being none, there has been a request for a recorded vote on NDP motion number 16.

Ayes

Tabuns.

Nays

Colle, Delaney, Hoggarth, Kiwala.

The Chair (Mr. Grant Crack): I declare NDP motion number 16 defeated.

Section 11: There were no amendments. Any final discussion on section 11? There being none, shall section 11 carry? Carried.

Section 12: Any further discussion? Ms. Hoggarth.

Ms. Ann Hoggarth: Is there a chance that we could bundle these ones?

The Chair (Mr. Grant Crack): There are only two of them, so it'll take as much time for me to get unanimous consent to bundle the two—

Ms. Ann Hoggarth: I'm sort of asking about down the page, too.

The Chair (Mr. Grant Crack): If you want to request, on section 15, to bundle 15, 16, 17 and 18, I'd be more than happy to entertain that. That would be a decision of the committee, though.

Ms. Ann Hoggarth: I think that would be wonderful.

The Chair (Mr. Grant Crack): Okay, thank you. We're dealing with section 12 now. There are no

amendments. There's no further discussion, from what I understand. Shall section 12 carry? Carried.

We shall move to section 13. Any discussion? Shall section 13 carry? Carried. Section 13 is carried.

We shall move to NDP motion number 17, which is an amendment to subsection 14(2), on subsection 70(14) of the Ontario Energy Board Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Chair. I move that subsection 14(2) of the bill, amending subsection 70(14) of the Ontario Energy Board Act, 1998, be struck out.

We've addressed this issue in the course of hearings before the committee. There were a variety of speakers who are very concerned that the existing structure, that requires utilities to set up affiliates to carry on unregulated or non-regulated business, would be lost. Certainly I think the argument that was made before us, that the mixing of regulated and unregulated business would allow a fair amount of gaming and the potential for unfair burdens to be put on ratepayers, was a reasonable argument.

I would say that the government should be supporting this amendment and should not be ending the practice of requiring that utilities set up affiliates if they're going to engage in unregulated business. And, sorry, I'd like a recorded vote when we get there.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? Mr. Delaney.

Mr. Bob Delaney: Thank you, Chair. I actually spent a little bit of time looking into this particular section. The government is going to recommend voting against this motion, for a few reasons. Section 73 of the OEB Act currently limits the types of activities that affiliates of municipally owned distributors can carry on, but it doesn't place similar restrictions on affiliates of distributors that are not municipally owned.

The proposed repeal of section 73 would remove restrictions on the business activities of affiliates of municipal local distribution companies. The proposed repeal of section 73 would put the affiliates of municipally owned local distribution companies on an equal footing with Hydro One and privately owned local distribution companies, clarifying their ability to expand their businesses and participate in the many innovations occurring in the electricity sector.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. Any further discussion? There being none, there has been a request for a recorded vote on NDP motion number 17.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Kiwala, McDonell, Yakabuski.

The Chair (Mr. Grant Crack): I declare NDP motion number 17 defeated.

There are no amendments to section 14. Any discussion on section 14? There being none, I shall call for the vote. Shall section 14 carry? Those opposed? I declare section 14 carried.

There has been a request to bundle sections 15, 16, 17 and 18.

Mr. John Yakabuski: No.

Mr. Peter Tabuns: No.

The Chair (Mr. Grant Crack): I hear a no. Then we shall deal with section 15. There are no amendments. Any discussion? There being none, I shall call for the vote. Shall section 15 carry? I declare section 15 carried.

We shall move to section 16. Any discussion on section 16? Mr. Tabuns.

Mr. Peter Tabuns: Yes. Chair, again, I'm concerned about the commingling of regulated and unregulated business in one firm. I think that it will be difficult enough in the new privatized world of Ontario's electricity system to properly and adequately regulate those activities. I think the commingling will make it far more difficult for a regulator to be effective, and I urge people to vote against section 16.

The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney.

Mr. Bob Delaney: Chair, I believe the government's case has been stated in our response to the last proposed amendment.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. Any further discussion?

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote. There being no discussion, I shall call the vote. Shall section 16 carry?

Ayes

Colle, Delaney, Hoggarth, Kiwala.

Nays

Tabuns.

The Chair (Mr. Grant Crack): I declare section 16 carried.

We shall move to section 17. Any further discussion on section 17? There being none, I shall call for the vote. Shall section 17 carry? I declare section 17 carried.

We shall move to section 18. Is there any discussion with regard to section 18? Mr. Tabuns.

Mr. Peter Tabuns: Well, no; I have an amendment coming up. I'll deal with it in the amendment.

The Chair (Mr. Grant Crack): Thank you.

Mr. John Yakabuski: There's an amendment?

The Chair (Mr. Grant Crack): It's adding a new section. That is after the actual section.

There's no further discussion—

Mr. Peter Tabuns: Sorry, on 18?

Mr. Grant Crack: On 18.

Mr. Peter Tabuns: No, sorry, just one second. No, I do have discussion on 18. We have—

The Chair (Mr. Grant Crack): Mr. Tabuns.

Mr. Peter Tabuns: Section 18 of the bill, Chair, allows the Lieutenant Governor in Council—effectively, the cabinet—to declare that any particular transmission line is going to be a priority and that there will be no review at the OEB as to the necessity for that line, whether it's justified for the system as a whole. The OEB will only be able to actually review expenses and determine whether or not, within the framework the cabinet has set, those expenses were reasonable and prudent or not.

I would say that everything else in this bill has been relatively small in terms of its impact on the lives of Ontarians. This will have a very substantial impact. I'll note, first of all, that the OEB was not given the responsibility for assessing the smart meter system when it came forward. This province spent \$2 billion on smart meters, for negligible savings, in terms of reduction of peak demand in Ontario—about 204 megawatts at the peak in winter.

We spent an extraordinary amount of money on a project that didn't actually go through an OEB hearing. There was no opportunity to test the evidence, to question the planners or the proponents. Frankly, Chair, if that had been the case, I think that there would have been the potential for a very different decision about whether or not we went ahead with smart meters.

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I would say that, with regard to transmission lines, if you remember the story that recently came out from CTV about the Niagara reinforcement line, the \$100-million transmission line to nowhere, the OEB actually had questions about that line, substantial questions. The government went ahead and had it built anyway. We're now paying \$5 million a year in interest on a line that is simply sitting there in the field, no power going through it.

That's bad enough. There is at least an opportunity at the OEB for people to question witnesses and for the regulators to question the proponents. That's over with this. This is part of an agenda that allows Hydro One, through its political advocates, to have cabinet direct the restructuring or redirection of the transmission system at great risk and peril to the people of Ontario. It opens the door to all kinds of hanky-panky behind closed doors. Frankly, we've seen with the Financial Accountability Officer that once it's a cabinet decision, even the officers of the Legislature can't ask for the background documents, can't see whether or not a decision that was made to spend hundreds of millions—perhaps billions—on transmission lines was justified in terms of the needs for the electricity system, justified in terms of Ontario's needs.

This allows the closure of the door on examination of major transmission projects. This is very dangerous for us as a province, very dangerous for the cost of electricity. It is reason enough to vote against the whole bill, if

this section is not deleted. So I urge members of the committee to delete this section in its entirety.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Further discussion?

Mr. John Yakabuski: Thank you, Chair—it's a weird setup we've got here. It's kind of awkward. Oh, there. Look, I fixed it. I'll get a technical award from Bob Delaney next week.

I share the concerns of my colleague from the NDP here, Mr. Tabuns. It just puts way too much power in the hands of the politicians and removes it from the independent advisory bodies, which should have some authority—in this government, they've become nothing but advisory bodies. The Niagara-Caledonia line that he's talking about there, it's nothing but a bunch of towers. But I'm sure the Liberals probably sent out a press release somewhere saying that no one has accidentally been electrocuted while climbing those towers because then, of course, later in the press release, they find out that there's no power running to them.

But \$100 million to build it and \$50 million, I think, in interest?

Mr. Peter Tabuns: Five million bucks a year for 10 years.

Mr. John Yakabuski: Five million bucks a year for 10 years, \$50 million in interest. And as Mr. Tabuns said, the OEB raised serious concerns about whether that line was necessary and that it was going to be wrought with problems should they go ahead.

Their predictions have come true. Have the Liberals been chastised or have they apologized for this waste of our resources? But now, if this section is not taken out, we're almost ensuring—try to stay awake, Joe; this is important—that we're going to have more of these things happening here in the province of Ontario.

I remember Bill 100, when the government said they were going to depoliticize the electricity system. How has that worked out, eh, Peter? It's more political than ever, and we're going to have even more of it in Bill 135. Every time you turn around, it is putting more and more power in the hands of this cabinet and these elected people who have driven us into the ground, and taking it away from the independent bodies that are supposed to be there to protect it.

I wholeheartedly support Mr. Tabuns here in opposing this section of the bill.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. Delaney.

Mr. Bob Delaney: Chair, are we now proceeding to vote on whether or not to carry section 18?

The Chair (Mr. Grant Crack): That's the discussion, yes.

Mr. Bob Delaney: Okay. Just before we move to the vote, Chair, the reason the line hasn't moved forward is due to the former federal government not being willing to work with First Nations regarding the land claims issue. That's it.

Chair, we request that you call the question now.

The Chair (Mr. Grant Crack): Further discussion? Mr. McDonell.

Mr. Jim McDonell: I wasn't going to say this, but I think that that issue has already been fought in court. The land claim has been settled, but this government has not moved on.

My concern, really, is about the latest issue with the financial officer, where they wouldn't release documents because of their cabinet security or whatever. We see this in last year's budget, where power from our independent officers has been removed. Power in this province has gotten to such a state—I know, unfortunately for this government, that since I've been here, every report on the electricity sector has been extremely embarrassing for the government, and it should be, because it's a mess. So their answer, instead of fixing the mess, is to make sure that we don't get information on it. That's no way to run a democracy. People deserve to know what's going on, good decisions as well as bad decisions. Unfortunately, all we're hearing is the government speak. They can make a bad decision sound great, and if there's no ability for people to find out what's going on, we'll be stuck with the propaganda that we're getting from this government.

The Chair (Mr. Grant Crack): Thank you. Mr. Tabuns?

Mr. Peter Tabuns: Chair, I note that amendment 18 hasn't been debated, so I may have jumped the gun on debate about the section as a whole.

The Chair (Mr. Grant Crack): Okay.

Mr. John Yakabuski: Well, we were wondering about that, too, but we're not the legal people here. We're not illegal either, we just—

The Chair (Mr. Grant Crack): We're discussing section 18 as a whole, right?

Mr. Peter Tabuns: Correct.

The Chair (Mr. Grant Crack): So perhaps we could focus the rest of our discussions on section 18 as it is.

Mr. Peter Tabuns: Okay, and then—

The Chair (Mr. Grant Crack): As I mentioned earlier, 18.1 is a new section, so that could very well be worthy of the processes of other discussion. However, we are on section 18. Any further discussion on section 18? There being none, I shall call for the vote.

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote. Shall section 18 carry?

Ayes

Colle, Delaney, Dickson, Hoggarth, Kiwala.

Nays

McDonell, Tabuns, Yakabuski.

The Chair (Mr. Grant Crack): I declare section 18 carried.

We shall move to PC motion 18. It's a new section 18.1, new section 96.2 of the Ontario Energy Board Act, 1998. Mr. McDonell.

Mr. Jim McDonell: I move that the bill be amended by adding the following section:

"18.1 The act is amended by adding the following section:

"Hydro One Inc. disclosure

"96.2 If Hydro One Inc. does not bid on a procurement contract for the construction of an electricity transmission line that has been declared to be needed as a priority project under section 96.1, it shall publish its reasons for not making a bid on its website."

The Chair (Mr. Grant Crack): Before we move forward, I just want to consult with the Clerk for a second.

Interjection.

The Chair (Mr. Grant Crack): Okay, so PC motion number 18: I'm going to rule that it's out of order, the reasons being that this particular bill has several purposes, and amendments directed to objects not specifically covered in this bill but are broadly germane to its subject matter may be found to be within the scope, but the amendment at hand introduces a provision that is not contemplated in the bill. Although the bill does have several purposes, I'm not satisfied that the amendment is relevant to the parameters of the bill, and I find that it is beyond the scope of the bill.

As I said earlier, I therefore call it out of order.

Mr. John Yakabuski: We thank you for your ruling, Chair.

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The Chair (Mr. Grant Crack): You're welcome.

We'll move to section 19. Is there any discussion on section 19? There being none, shall section 19 carry? I declare section 19 carried.

Section 20: Any discussion? There being none, shall section 20 carry? I declare section 20 carried.

Section 21: Any discussion? There being none, shall section 21 carry? Section 21 is carried.

Section 22: Any discussion? There being none, shall section 22 carry? I declare section 22 carried.

Section 23: Any discussion? There being none, shall section 23 carry? I declare section 23 carried.

Short title, section 24: Any discussion? There being none, shall section 24 carry? I declare section 24 carried.

Title of the bill: Any discussion? There being none, shall the title of the bill carry? I declare the title of the bill carried.

Shall Bill 112, as amended, carry? Mr. Tabuns, discussion.

Mr. Peter Tabuns: Chair, the removal of the decision-making about major transmission lines is a huge shift away from openness in the system—not that it's as open as it should be, but it's a very substantial withdrawal of information from the public realm. I don't think this act should pass, and I think, before you call that vote, that it needs to be a recorded vote.

The Chair (Mr. Grant Crack): Any further discussion on “Shall Bill 112, as amended, carry?” Mr. Yakabuski.

Mr. John Yakabuski: I certainly share Mr. Tabuns’s objections. I don’t know that we would hold up the legislation at this point, but he has raised a very valid point and the government seems to be uninterested in listening to that objection and that consideration in this bill.

I suspect they have their very good reasons for not listening to his suggestions, suggestions that we concurred with and added our own narrative to as well. I suspect their reasons are political, as they are so many times. That’s unfortunate, what’s happening in this electricity sector, that it has become more political than ever under this government.

They talk about consumer protection, and we recognize that there are some things in this bill that we all supported. I understand that it doesn’t go far enough to satisfy the members of the third party, but there are some things that we, as a unit, as a Legislature, were more than willing to support. But we have grave concerns, and he is absolutely right, about the, as he said, withdrawal—I would say maybe even more to the point of withholding—of vital information from consumers, residents, citizens and businesses in this province about what the government’s plans are and how that might affect, ultimately, the bottom line of their bill, which is of concern to everybody. So I do share some of those concerns that Mr. Tabuns has raised.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, there has been a recorded vote request.

I shall call the vote. Shall Bill 112, as amended, carry?

Ayes

Colle, Delaney, Dickson, Hoggarth, Kiwala.

Nays

Tabuns.

The Chair (Mr. Grant Crack): I declare Bill 112, as amended, carried.

Shall I report the bill, as amended, to the House? Any discussion? No? I’ll call the vote now. Shall I report the bill, as amended, to the House? There was no request for a recorded vote, so it makes it a little more difficult to determine, but I declare that I shall report the bill, as amended, to the House. Carried.

I want to thank everyone. That ends our business for today. I look forward to seeing you all in the near future.

Mr. John Yakabuski: So we’re not meeting on Wednesday, then?

The Chair (Mr. Grant Crack): There will be no meeting at this time on Wednesday.

Mr. John Yakabuski: I’m going to miss you.

The Chair (Mr. Grant Crack): I will miss you, too, Mr. Yakabuski.

The committee adjourned at 1525.

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Mercredi 25 novembre 2015

Standing Committee on General Government

Mental Health Statute Law
Amendment Act, 2015

Comité permanent des affaires gouvernementales

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 25 November 2015

Mercredi 25 novembre 2015

The committee met at 1608 in committee room 2.

The Chair (Mr. Grant Crack): Good afternoon, everyone. Sorry for the delay. I'd like to call the Standing Committee on General Government to order. I'd like to welcome you all this afternoon.

SUBCOMMITTEE REPORT

The Chair (Mr. Grant Crack): As you are probably aware, the subcommittee met on Thursday, November 19, in order to determine how we would proceed through the public hearing process, and we have a report that we should put before committee prior to the commencement of the public hearings. Is there anyone interested in moving the adoption of the report and reading it into the record? Mr. Colle.

Mr. Mike Colle: Your subcommittee on committee business met on Thursday, November 19, 2015, to consider the method of proceeding on Bill 122, An Act to amend the Mental Health Act and the Health Care Consent Act, 1996, and recommends the following:

(1) That the committee hold public hearings on Bill 122 in Toronto at Queen's Park on Wednesday, November 25 and Monday, November 30, 2015, during its regular meeting times.

(2) That the Clerk of the Committee, with the authorization of the Chair, post information regarding the committee's business with respect to Bill 122 in English and French on the Ontario parliamentary channel, on the Legislative Assembly website and with the CNW news-wire service.

(3) That interested people who wish to be considered to make an oral presentation on Bill 122 should contact the Clerk of the Committee by 12 noon on Tuesday, November 24, 2015.

(4) That the committee Clerk schedule witnesses on a first-come, first-served basis.

(5) That groups and individuals be offered 10 minutes for their presentations, followed by up to nine minutes for questions by committee members—three minutes per caucus.

(6) That staff from the Ministry of Health and Long-Term Care be invited to appear in the first witness spot on Wednesday, November 25, to provide a briefing on the current process by which patients can be detained in psychiatric facilities under the different certificates in the Mental Health Act, and how the new certificate of continuation proposed in Bill 122 will alter that process.

(7) That staff from the Ministry of Health and Long-Term Care be offered 30 minutes, including time for questions by committee members, for the briefing to the committee.

(8) That the deadline for receipt of written submissions on Bill 122 be 5 p.m. on Monday, November 30, 2015.

(9) That amendments to Bill 122 be filed with the Clerk of the Committee by 12 noon on Tuesday, December 1, 2015.

(10) That the committee meet on Wednesday, December 2, 2015, during its regular meeting time for clause-by-clause consideration of Bill 122.

(11) That the research officer provide the committee with a briefing paper on Bill 122, with a focus on the Ontario Court of Appeal decision to which the bill responds, by Wednesday, November 25, 2015.

(12) That the Clerk of the Committee, in consultation with the Chair, be authorized to commence making any preliminary arrangements necessary to facilitate the committee's proceedings prior to the adoption of this report.

I so move the subcommittee report.

The Chair (Mr. Grant Crack): Mr. Colle has moved adoption of the subcommittee report. Is there any discussion? There being none, I shall call for the vote. Those in favour of the subcommittee report? The subcommittee report is carried.

MENTAL HEALTH STATUTE LAW
AMENDMENT ACT, 2015LOI DE 2015 MODIFIANT DES LOIS
RELATIVES À LA SANTÉ MENTALE

Consideration of the following bill:

Bill 122, An Act to amend the Mental Health Act and the Health Care Consent Act, 1996 / Projet de loi 122, Loi visant à modifier la Loi sur la santé mentale et la Loi de 1996 sur le consentement aux soins de santé.

MINISTRY OF HEALTH
AND LONG-TERM CARE

The Chair (Mr. Grant Crack): This afternoon, we have three delegations before the committee, the first being, according to number 6 in the subcommittee report—there was some discussion to have the Ministry

of Health and Long-Term Care come before us to discuss some particulars of the process currently being used and the process proposed in Bill 122. So at this time I would like to welcome representatives from the Ministry of Health and Long-Term Care to the table. We have Mr. Sean Court, who's the acting director of the strategic policy branch, strategic policy and planning division, and Mr. Liam Scott, legal counsel, deputy minister's office, legal services branch.

According to the subcommittee report, we have 30 minutes for this presentation. I would imagine that somewhere around the 20-minute mark or before, we can commence questioning or comments from members of the committee.

Welcome, gentlemen. You have up to 30 minutes.

Mr. Sean Court: Thank you very much for the invitation to present to the committee today as you begin your public hearings on Bill 122, the Mental Health Statute Law Amendment Act, 2015. My name is Sean Court. I'm the interim director of the strategic policy branch within the Ministry of Health and Long-Term Care. Our branch is responsible for mental health and addictions policy on behalf of the ministry.

I'm joined today by my colleague Liam Scott, counsel with the ministry's legal services branch. Liam will be taking you through the circumstances leading to the proposed amendments, the current processes by which patients can be detained in a psychiatric facility under the different certificates under the Mental Health Act, and the impact of the proposed new certificate of continuation that has been proposed under Bill 122.

By way of context, the proposed amendments have been scoped to respond to the Ontario Court of Appeal's decision in the case of *P.S. v. Ontario*, which my colleague will provide you more detail on. So I'll turn things over to Liam.

Mr. Liam Scott: Thank you to the Chair and to members of the committee for inviting the ministry to speak to you today. Again, my name is Liam Scott, and I'm legal counsel with the Ministry of Health and Long-Term Care.

Bill 122 would, if passed, amend the Mental Health Act and make one complementary amendment to the Health Care Consent Act in response to the Ontario Court of Appeal decision in *P.S. v. Ontario*, which I will refer to in the course of my remarks as the *P.S.* decision. The *P.S.* decision found that the provisions in the Mental Health Act that allow a person to be involuntarily detained for more than six months in a psychiatric facility violated section 7 of the Charter of Rights and Freedoms—life, liberty and security of the person—unless a mechanism is put in place by which a person can seek a review of the conditions of his or her detention so as to ensure that they are the least restrictive in the circumstances commensurate with the reason for their hospitalization.

First, I will address the scope of these proposed amendments. These proposed amendments would not affect patients who are detained under the Criminal Code,

who are referred to as forensic patients. These proposed amendments also would not affect any involuntary patients detained in a psychiatric facility for less than six months. So they would only affect patients detained in a psychiatric facility involuntarily for more than six months.

I will now provide some background on the Mental Health Act and certificates under the Mental Health Act.

The Mental Health Act provides for involuntary detention of patients in psychiatric facilities, which are designated under the Mental Health Act, where those patients are suffering from a mental disorder that likely will result in (a) serious bodily harm to the patient or to another person; (b) serious physical impairment of the patient; or (c) substantial mental or physical deterioration. This detention is referred to as civil detention.

A physician may make an application for a psychiatric assessment of a person if the test under the Mental Health Act is met, which is authority for seven days for a person to be restrained, observed and examined in a psychiatric facility for up to 72 hours. This is referred to as a form 1.

The attending physician in the psychiatric hospital, who must be a different physician from the physician who completed the form 1, must assess the patient to determine whether the patient should be released, if the attending physician is of the opinion that the person is not in need of care and treatment in the psychiatric facility; admit the patient as a voluntary or informal patient to the hospital; or admit the person as an involuntary patient to the hospital.

The form used to admit this patient as an involuntary patient to a psychiatric hospital is referred to as the form 3. The form 3 allows for a person to be detained, restrained, observed and examined as an involuntary patient in a psychiatric hospital for two weeks.

The Mental Health Act currently allows for repeated renewals of a patient's involuntary status by what's called a certificate of renewal, or a form 4. It provides for a one-month time period for a first certificate of renewal for the form 4, two months under a second form 4 and three months for a third or subsequent form 4. Note that the *P.S.* decision, which I will describe in greater detail shortly, struck out the words "or subsequent" from the Mental Health Act, limiting the amount of time by which involuntary patients could be involuntarily detained in a psychiatric facility.

There is currently no limit to the number of certificates of renewal. As a result, a patient can be involuntarily detained in a psychiatric hospital for long periods of time.

The Mental Health Act provides that on each renewal of a patient's involuntary status—so when a form 3 is issued or any of the form 4s are issued—the patient is entitled to a review of that status before the Consent and Capacity Board, which I will henceforth refer to as the CCB for short.

The only question that the CCB considers in these hearings is whether the patient continues to meet the conditions for involuntary admission or continuation as

an involuntary patient; i.e., whether they should continue to be detained or released or whether they should be transferred to another psychiatric facility.

Currently, the CCB cannot make orders dealing with the patient's residual liberty, such as privileges on the ward, supervised or unsupervised access to the community, temporary leaves of absence, access to vocational, recreational or translation services. The inability to make these types of orders was raised as a concern by the Ontario Court of Appeal in the P.S. decision.

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I will now discuss the P.S. decision. P.S. has been civilly detained at Waypoint psychiatric facility for over 19 years, and he has frequently appeared before the Consent and Capacity Board to have his involuntary status reviewed. As noted in the court's decision, he was involuntarily detained under the Mental Health Act after serving a five-year penitentiary sentence for sexual offences involving children.

While the CCB over the past 19 years has consistently affirmed that P.S. posed a risk of harm and should continue to be an involuntary patient, they commented that P.S.'s disability and the relatively low security risk that he posed to other adults did not warrant his continued detention in the maximum-security unit at Waypoint. The CCB at these hearings also repeatedly expressed frustration over its inability to make orders respecting the lack of ASL support services—American Sign Language support services—for P.S. and the lack of action on the part of Waypoint hospital in facilitating a transfer to a less secure facility.

On December 23, 2014, in the P.S. decision, the Court of Appeal granted a declaration that the Mental Health Act provisions permitting the involuntary committal of a patient on an involuntary basis for more than six months are unconstitutional unless a mechanism were to be put in place by which the conditions of detention could be addressed. The court struck out the words “or subsequent” from the Mental Health Act in the certificate process I mentioned to you earlier, limiting the detention of involuntary patients in psychiatric facilities to six months.

At paragraph 127 of the decision, the court noted, in part, as follows: “The CCB’s inability to tailor conditions of detention to meet the individualized circumstances of long-term patients ‘constitutes a statutory gap’ that ‘can lead to overly restrictive, prolonged and indefinite detentions thereby rendering the impugned scheme overbroad’.... The CCB lacks the required authority to ‘make orders regarding security, privileges, therapy and treatment, or access to and discharge into the community.’”

The court also found a violation of Mr. P.S.’s section 15 equality rights arising from the lack of ASL interpretation services.

The court suspended its declaration for 12 months until December 23 of this year, 2015, to give the Legislature time to bring the Mental Health Act into compliance with the charter; in other words, to put in

place a mechanism for the CCB to make individualized orders that address these types of “residual liberty” concerns regarding the conditions of long-term patients’ detention in psychiatric facilities.

I will now provide a summary of the proposed amendments in Bill 122 and how the certificate of continuation would work with the existing process.

For the certificate of continuation, the amendments would, if passed, make it possible to detain a patient involuntarily in hospital for more than six months—I will refer to these types of patients as long-term involuntary patients—on a new form, a certificate of continuation, which would apply after the expiry of the patient’s third certificate of renewal or third form 4.

A certificate of continuation would allow a long-term involuntary patient to be detained for a three-month period similar to the current form 4 in the Mental Health Act. Subsequent certificates of continuation would allow a patient to be detained for further three-month periods if the patient continues to meet the test for an involuntary patient under the Mental Health Act.

The amendments would provide new powers to the Consent and Capacity Board. The amendments would provide additional rights to long-term involuntary patients in the form of enhanced powers for the Consent and Capacity Board when considering the continued detention of patients who have been involuntary patients for more than six months. The amendments would limit the CCB to making one or more of the following orders when it confirms a long-term involuntary patient’s certificate of continuation:

- (1) transferring a patient to another psychiatric facility if the patient does not object;
- (2) placing the patient on a leave of absence on the advice of a physician;
- (3) directing the officer in charge to provide a different security level or different privileges within or outside of the psychiatric facility;
- (4) directing the officer in charge to provide supervised or unsupervised access to the community;
- (5) directing the officer in charge to provide vocational, interpretation or rehabilitative services.

The factors that the CCB would have to take into account in making an order would be:

- the safety of the public;
- the ability of the psychiatric facility or facilities to manage and provide care for the patient and others;
- the mental condition of the patient;
- the reintegration of the patient into society;
- the other needs of the patient; and
- that any limitations on the patient’s liberty be the least restrictive commensurate with the circumstances requiring the patient’s involuntary detention.

The CCB could make one of those new proposed orders in response to an application by the patient or on its own motion. However, note, as I said before, that an order to transfer a patient would require that the patient not object to that transfer. The CCB could also make the implementation of the above new orders subject to the

discretion of the officer in charge, to give the officer in charge flexibility to tailor a general order to a patient's changing circumstances.

In order to respect the patient's right to consent to treatment and the physician's obligation not to provide treatment that he or she does not consider to be efficacious, the CCB could not make an order directing a physician to carry out psychiatric or other treatment or require that a patient submit to such treatment.

However, the amendments would provide that if a physician agreed to provide treatment for a patient and the patient consented to the treatment, the CCB could make an order contingent upon that agreement and consent of the physician and patient. For example, if the CCB, under its new orders, wished to put a patient on a leave of absence and the physician provided evidence to say, "I would agree to prescribe this neuroleptic medication to the patient," and the patient said, "I agree to take the neuroleptic medication," then the CCB, in its order, could take note of the agreement of the physician and the patient in issuing its order.

The officer in charge would also be able to take a temporary action contrary to a CCB order when there's a risk of serious bodily harm to the patient or to others. If, however, the temporary action exceeded seven days, the officer in charge would be required to apply to the CCB to vary, confirm or cancel the order. In addition, a long-term patient or the officer in charge would be able to apply to the CCB to vary or cancel the CCB's order. The CCB would hear the application if the CCB is satisfied that there has been a material change in circumstances.

I will now speak as to the timing of CCB hearings. Similar to the current scheme under the Mental Health Act, the long-term involuntary patient would be entitled to request a review of his or her involuntary status after each certificate of continuation is issued. There will be a mandatory review of the patient's involuntary status when the first certificate of continuation is issued at the six-month-and-two-week mark—because the first form 3 is for two weeks—and every year thereafter.

The long-term involuntary patient can apply for one of these new orders any time he or she seeks a review of the renewal of their certificate where he or she has not applied in the last 12 months or where the CCB is satisfied that there is and has been a material change in circumstances.

The CCB would also be able to hear an application to transfer a long-term involuntary patient made by the officer in charge or the Minister or Deputy Minister of Health and Long-Term Care at any time.

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Independent assessments: The CCB would be able to order an independent assessment of the patient's mental condition or his or her vocational, interpretation or rehabilitative needs.

For community treatment orders, the bill provides that if the CCB at a hearing is advised that a physician has issued and completed a notice of intention to issue a CTO—which is a form 49—then the CCB would be

required to consider that notice of intention to issue a CTO when they review a patient's involuntary status. The CCB would not have the power to order a physician to issue a CTO and take on responsibility for managing that patient in the community.

Rights advice: Patients would receive rights advice as to these new orders of the CCB, and there is a statutory provision providing for that in the bill. A regulation-making authority is also proposed to require that rights advice be provided to a patient or category of patients with respect to the new orders and governing the timing or content of any rights advice that is provided.

There are some other related amendments. The proposed amendments in Bill 122 would allow physicians and nurse practitioners to sit on Consent and Capacity Board panels for less complex hearings, not on certificate of continuation hearings. This would free up existing psychiatrist capacity for the more complex hearings anticipated by these amendments. The proposed amendments also contain transitional provisions to assist the CCB in addressing these new hearings, when and if the proposed amendments come into force.

Thank you. Sean and I would be pleased to respond to any questions you have at this time.

The Chair (Mr. Grant Crack): Thank you very much. We shall start with the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thank you for coming in and giving us the overview. I guess the first question to ask is, did you have a consultation with the OMA and the Ontario Psychiatric Association regarding the changes to the Consent and Capacity Board, and their thoughts, before you brought this forward?

Mr. Sean Court: As part of the development of the proposed amendments in Bill 122, the ministry did consult with a number of stakeholders. We consulted with patients, patient rights advocates, the Mental Health and Addictions Leadership Advisory Council and key stakeholders.

Mr. Jeff Yurek: Were the OMA and the Ontario Psychiatric Association included?

Mr. Sean Court: We spoke with the specialty psychiatric hospitals and we spoke with a group of psychologists—

Mr. Liam Scott: Psychiatrists.

Mr. Sean Court:—psychiatrists, sorry—but I don't specifically know that they represented that organization's interests directly or if they represented a group of concerned individuals as a subset of that broader group.

Mr. Jeff Yurek: So the OMA wasn't—did I miss that?

Mr. Sean Court: To the best of my recollection, we didn't have specific consultations with the OMA.

Mr. Jeff Yurek: Okay. Is there any other reason that you didn't include any other changes to the Mental Health Act? I mean, we've had lots of committees. We had an all-party select committee brought forward by the Legislature which gave recommendations a number of years ago that are waiting for some form of legislation,

one way or the other, and discussion in the Legislature. Why didn't you take the time to incorporate those pieces of legislation?

Mr. Sean Court: The direction, as part of our approvals process, was to move forward with the introduction of amendments that were specific to the P.S. v. Ontario case. We heard from lots of different groups, as part of our consultations, about potential additional amendments that range from very narrow technical amendments, which would have resulted in a cleanup within the act, for example, all the way to bigger policy direction changes that could be potentially introduced through the Mental Health Act. That would include potentially implementing the recommendations of the select committee.

Mr. Jeff Yurek: Wouldn't you think, though, that you kind of opened the door to actually include other amendments when, in fact, you changed the construction of the Consent and Capacity Board, which technically doesn't really have anything to do with the P.S. case?

Mr. Sean Court: Sorry; by introducing amendments that change the powers of the Consent and Capacity Board, we're not responding to the P.S. v. Ontario decision? I'm just trying—

Mr. Jeff Yurek: You've changed the composition of the board, when really the case wasn't asking you to change the composition of the board; it was more so to take a look at the certificates and ensuring the person has the liberty.

Mr. Liam Scott: Those amendments, we would say, are related, because it's anticipated that these new hearings will be complex, they will likely be longer, and this type of amendment would enable the Consent and Capacity Board to allocate its resources.

Understand that the amendments only give discretion to the Consent and Capacity Board as to how they would staff these other types of hearings, other than certificate of continuation hearings. So psychiatrists could still sit on those hearings. But it gives the Consent and Capacity Board discretion, given that we anticipate there will be longer and more complex hearings arising out of these amendments for long-term involuntary patients.

The Chair (Mr. Grant Crack): We'll have to move on. Ms. Forster.

Ms. Cindy Forster: Before I start my questions, can we request a copy of the stakeholders and groups you consulted with during this process?

Mr. Sean Court: Okay.

The Chair (Mr. Grant Crack): Would the committee consider the request from the third party to have a copy of the list of stakeholders? Is that what you're asking?

Ms. Cindy Forster: Correct.

The Chair (Mr. Grant Crack): Okay. Any opposed? Done.

Ms. Cindy Forster: Thank you so much.

Around financial and legal resources, does the government currently provide any legal resources for hospitals during Consent and Capacity Board hearings? We've heard from some of the hospitals that they're concerned

they won't have the legal or financial resources available at complex hearings because of their budgetary constraints.

Mr. Sean Court: As part of our consultations, we've definitely heard from the four specialty psychiatric hospitals that they're concerned about the implications on them in terms of resourcing. At this point in time, there are no additional resources that are contemplated to go along with the proposed amendment.

Ms. Cindy Forster: So we're not going to be giving them any more budget dollars to be able to participate in any fulsome way?

Mr. Sean Court: As I mentioned, there are no additional resources that are contemplated.

Ms. Cindy Forster: Under proposed subsection 41.1(3), which sets out the factors that the Consent and Capacity Board will consider when making an order under the CFC, will the hospitals' financial resources be included under paragraph 2, which states that the ability of the psychiatric facility or facilities to manage and provide care for the patient and others must be considered—considering your last response?

Mr. Liam Scott: Certainly, at a Consent and Capacity Board hearing, the psychiatric facility could provide evidence, under that criterion or factor to consider that the ability to manage and provide care for the patient and others is impacted by some sort of financial circumstance. That would be open for the hospital to make that argument before the board.

Ms. Cindy Forster: Who would they make that request to for those additional resources, if that was considered? If they made that plea to the board for that consideration, and the board ordered it, who would be providing that funding? The ministry?

Mr. Sean Court: Hospitals flag pressures to the ministry through our liaison branch throughout the course of a fiscal year.

Ms. Cindy Forster: According to the current legislation, only a physician can complete a form 1 under the act. Has the ministry done any consideration about extending this to nurse practitioners?

Mr. Liam Scott: That isn't contemplated by these current amendments. I'd have to ask Sean if he can speak to the other aspect of that.

Mr. Sean Court: I don't work with our nursing colleagues and nursing policy directly, so if it would be okay, I would like to get that answer back to you.

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Ms. Cindy Forster: Okay. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We'll move to the government. Mr. Fraser. No?

Mr. John Fraser: Yes, thank you very much. I just wanted to make sure if my colleagues had any questions.

Thank you very much for presenting to us today.

Just to rehash for the sake of the committee: This bill is a specific response to the court decision in the circumstance of P.S. That's correct?

Mr. Liam Scott: Correct.

Mr. John Fraser: We're responding to that as access to process and justice. Would that be a fair assessment?

Mr. Liam Scott: Yes. It's intended to give the Consent and Capacity Board additional powers, which will safeguard the liberty interests of patients who continue to be detained in a psychiatric facility, yes.

Mr. John Fraser: In terms of opening the membership of the Consent and Capacity Board to include physicians and nurse practitioners for cases that are not as complex—I'm doing some work in scope, so the question will go toward scope. If in fact, in any case of scope, a health care professional has to make a decision as to whether or not they have the capacity to deal with what's in front of them, whether that be a patient or a decision of a certain type, do you feel confident in how the changes to the Consent and Capacity Board can function, given those parameters?

Mr. Liam Scott: Yes. The Court of Appeal mandated that additional powers needed to be provided to the Consent and Capacity Board, and the Consent and Capacity Board, we know, in hiring additional members, will ensure that those members are trained on the new amendments and will, as any adjudicative body does, ensure that their members are properly trained as to the legal requirements.

Mr. John Fraser: I just want to add into the record: As health care professionals, they're bound by their colleges and their conscience to make decisions based on their capacity, and if they feel something is not going to be within their capacity, then they have an obligation to let people know.

Mr. Liam Scott: I believe that's correct.

Mr. John Fraser: Okay. Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We're almost right at the 30 minutes. We really appreciate you two gentlemen taking the time to come before committee this afternoon. Have a great afternoon.

ADVOCACY CENTRE FOR THE ELDERLY

The Chair (Mr. Grant Crack): Next we have, from the Advocacy Centre for the Elderly, Jane Meadus, who is the institutional advocate. Ms. Meadus, we welcome you here this afternoon. I believe you're a staff lawyer, would that be correct? Perhaps you could just introduce yourself for the record as well. You have 10 minutes, followed by approximately three minutes each of questioning from the three parties. Welcome.

Ms. Jane Meadus: Thank you. I'm just going to turn on my speaker counter here so I don't run over time.

My name is Jane Meadus. I'm a lawyer at the Advocacy Centre for the Elderly. I've been there for 20 years, and I'm the institutional advocate, which means that I deal with issues of institutionalization, whether they are long-term care, psychiatric issues etc.

The Advocacy Centre for the Elderly, if you are not familiar with us, is a legal clinic. We are located here in Toronto, just up the street, and we've been in operation for over 30 years. We provide legal advice and services

to low-income seniors across the province, but mostly in the city of Toronto. We have a staff of eight, five of whom are lawyers. One of the areas that we do a lot of work in is with respect to issues of capacity and mental health.

I have provided a copy of our submissions today, so hopefully you've all gotten copies of that—and certainly if you have any questions.

We are supporting the submissions today of the Mental Health Legal Committee, which is represented here today by Marshall Swadron and Karen Spector, who will be presenting following myself.

I also wanted to recognize in the room today, over my left shoulder, at the back, Mercedes Perez, who was counsel to Mr. P.S. at the hearings—just to recognize her dedication in this case, which goes far above and beyond what is probably required of counsel. I just wanted to recognize her today.

Our submission today has three basic issues to it. I'm going to spend the most time on the first issue because I think it's the most important.

Ministry of Health counsel today discussed the issue of what the amendments are, which are really to deal with the issue the violation in P.S.—that the Mental Health Act violated the charter as it did not protect the liberty interests of long-term psychiatric patients. They're resolving this by including a new category of certificate called certificates of continuation.

The issue that we have is that this relates only to persons who have been held on certificates of involuntary admission. It doesn't help anyone who's either a voluntary patient or an informal patient. I'm going to explain: An informal patient is someone who is admitted by a substitute decision-maker—but there are limitations. If the patient disagrees with the admission, the substitute decision-maker's consent for the admission can only take place if there's a court-appointed guardian or an attorney under power of attorney for personal care that has very special requirements. These are called Ulysses contracts, and they're very few and far between in the province of Ontario. If a family member wants to admit a patient and the patient doesn't want to go in, they have to go in via the forms that we heard about earlier today.

The problem is that in psychiatric facilities, we have a lot of people who are voluntary, but aren't voluntary. The sections here are not going to deal with that. This affects seniors a lot because what we find is that many seniors are being admitted to psychiatric facilities not under certificates, but are being prevented from leaving either because the hospital believes the senior's family can do this admission or because the hospital simply thinks it has the authority to do so.

The problem here, interestingly, is that the amendments that are proposed today are not going to help Mr. P.S. because Mr. P.S., in fact, is a voluntary patient. However, if he tries to walk out the door at Waypoint, he will be detained. So the problem is that the amendments that are being presented today aren't going to help him.

He has actually been a voluntary patient since approximately 2012. There have been hearings into this issue,

and if you refer to page 9, footnote 13 of our submission, we refer to the case where he actually attempted to go to the Consent and Capacity Board to say, “Hey, look, I’m here. I’m voluntary because I don’t want to walk out the door and have the security guards come after me and pull me back and get into this big thing. So I’m agreeing to stay here, but in fact I don’t want to be here.” The board said, “Well, we really feel sorry for you, but there’s nothing we can do for you.” What we have today does not assist Mr. P.S. and it actually doesn’t help the situation.

We believe that the certification or this continuance certificate, these rights, need to be expanded to anyone who is in a psychiatric facility voluntarily, involuntarily or informally who is there longer than the six months, so that everyone can go to the Consent and Capacity Board if they feel that there are violations.

The second issue that I’m going to talk about is treatment without consent. The problem with the sections, as the way they have been set out—we heard about these orders where if the patient or their substitute decision-maker agrees to a treatment that the psychiatrist wants to give, then that would be included in an order. The question is, what happens if the psychiatrist decides that that’s not an appropriate treatment or the patient decides that they don’t want to take that treatment anymore? Does that become a breach of the order? Do they have to go back to the Consent and Capacity Board? What has to happen?

This is an attempt to override the requirements of the Health Care Consent Act, which allow a competent person or their substitute decision-maker to withdraw consent or refuse consent at any time.

We also want to point out the issue of section 41.1(2)1 that talks about the transfer provision. There’s a transfer provision in the act, and it says that it’s subject to subsections (10), (11) and (12). We believe that the intent of these subsections was to ensure that the patient’s well-being is primary. They have to look at issues such as if it’s in their best interests etc.

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The problem is that the way that the subsections are written, a lawyer could go before a court and say that they’re actually allowing to override. So if the board felt that it was in the best interest to override what the patient wanted, they can do that. We don’t believe that that is the intent, but we believe that is a possible outcome if they’re done as set out. So we’re suggesting that we take the “subject to subsections (10), (11) and (12)” part of the legislation out.

We also wanted to indicate that the changes to the Consent and Capacity Board, with the addition of the nurse practitioners—we want to make sure that those persons have experience in the area of mental health law: not only that they are nurse practitioners but they have some expertise, some training, in the area of mental health.

We further recommend that there be some requirements for more patient-side representation on the board,

especially those people who have experience outside of a hospital context, so that these persons can bring fairness and balance to the board to provide the lived experience of those with mental health issues to the board system.

So I’ve finished early and I’m ready for questions.

The Chair (Mr. Grant Crack): Wow.

Ms. Jane Meadus: I know.

The Chair (Mr. Grant Crack): You had a minute 30 left. Congratulations.

We shall start with the third party. Ms. Forster.

Ms. Cindy Forster: Thank you, Chair. When making an order for the certificate of continuation, the board actually is required to consider a number of things: the safety of the public, the ability of the psych facility to manage or provide the care, the mental condition of the patient, the reintegration pieces into society, and other needs or any limitations on the patient’s liberty that are least restrictive under the circumstances. Do you believe that there is anything missing in these criteria or do any of these factors cause you concern?

Ms. Jane Meadus: We don’t have any concerns specifically. I think there was a question about the money issue and whether that would be an issue. We don’t believe that cost is something that can be looked at because it’s in the charter. If the person happens to be more expensive, you can’t turn someone down for health care—and you’ve got to remember that this is a provision of health care—because there is an issue of cost. I think that has been an issue in this case of P.S. because it has to do with translation services.

Ms. Cindy Forster: Right. I know during the debate in the House, there were some concerns raised around that issue, that when the court orders treatment, the money flows with it. There are concerns that when the Consent and Capacity Board orders treatment, those dollars won’t necessarily be provided.

Ms. Jane Meadus: I certainly can’t speak to the money that the hospitals are getting, but what I can say is that you can’t say to someone, “You can’t get medical treatment.” Again, we’re talking about medical treatment. This person, whoever it is, is going to be in the system already, and you can’t say, “You can’t give them treatment because it costs too much.” If they’re entitled to treatment, they’re entitled to treatment.

Ms. Cindy Forster: Can you just expand a little bit more—you talked about what you thought the makeup of the board should be—the Consent and Capacity Board—around the people with lived experience?

Ms. Jane Meadus: Certainly. What we see on the board, obviously, are lawyers and psychiatrists, generally, and then community members. Often, those community members—it would be nice to have more people who have actually had experience in the mental health system as patients, so they can bring that experience, because we get a very lopsided, very hospital-based—medical practitioners: That’s the perspective they bring. So we’d like to see that there be some requirements for there to be more people on the board with that lived experience in the mental health system.

Ms. Cindy Forster: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the government. Mr. Fraser.

Mr. John Fraser: Thank you very much for being here today and for the work that you do. I have two areas I'd like to talk to you about. I'm interested in "voluntary," "involuntary" and "informal." Very quickly, do informal and voluntary patients currently come before the Consent and Capacity Board? Is that a routine thing?

Ms. Jane Meadus: No.

Mr. John Fraser: They don't. Okay, so they have not—in any circumstances?

Ms. Jane Meadus: I'd have to check. There may be a very, very minimal number to do with children, but generally no.

Mr. John Fraser: Okay. Why is that?

Ms. Jane Meadus: Why don't they have the ability to come in front of the board?

Mr. John Fraser: Yes.

Ms. Jane Meadus: Because of the protections that are built into the act, supposedly—so if you're a voluntary patient, that, by definition, means that you can leave. The problem is that, for example, voluntary patients are told that they can't leave. So people are often made voluntary in order to get around having hearings. That's not an uncommon thing that we hear.

Mr. John Fraser: Okay. And the change in status with P.S. from involuntary to voluntary—it's parsing in a way, because he is involuntary in the sense that if he changed his mind, he would become involuntary right away.

Ms. Jane Meadus: That's correct. So the fact that he is being co-operative means that he has lost all his rights.

Mr. John Fraser: Yes. The second thing is, I was interested in your comments with regard to nurse practitioners. Just so I can characterize it, you had comfort as long as the person had the requisite expertise in mental health to be part of that decision-making body.

Ms. Jane Meadus: That's right.

Mr. John Fraser: In your request for more lived experience on the board, would that include families? Are you speaking specifically of patients or are you speaking of people who have had an involvement from the perspective of a caregiver, power of attorney, family?

Ms. Jane Meadus: We would be speaking specifically of patients.

Mr. John Fraser: Thank you very much.

The Chair (Mr. Grant Crack): We shall move to the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thanks very much for coming in. You raised a point, and I wanted clarification. If, under the bill, the consent board agrees to an order for treatment and somewhere down the road, within a week or two weeks, something has gone wrong with the treatment and the psychiatrist wants to change it, are you saying he has to go back to the board to have that? Or is that the grey area where we might end up with another court case?

Ms. Jane Meadus: That's a grey area; absolutely. What happens if the psychiatrist changed or what happens if, for example, the patient starts to take their medication and then they're having side effects so they change their mind? What is the status? Under the Health Care Consent Act, you can refuse. Under this, it's not as clear.

Mr. Jeff Yurek: Who would make that decision? Where would that fall under if someone's going to say, "We've got this order; you can't change your mind"?

Ms. Jane Meadus: Our position would be that that requirement should be removed—that they should be allowed to withdraw their consent.

Mr. Jeff Yurek: Okay. Another thing that I found concerning: You're saying that a lot of seniors are being admitted into our psychiatric facilities.

Ms. Jane Meadus: Yes.

Mr. Jeff Yurek: And the reasoning is—is it because of dementia and stuff?

Ms. Jane Meadus: Because of dementia and behavioural issues. They're coming into psychiatric facilities either from the community or from long-term-care homes into behavioural units, into geriatric units, into regular populations. When we speak to the seniors or their families, we're finding that they're not being admitted, frankly, as either an informal or as a voluntary or involuntary—they're just admitted by the hospital without any, really, review of their rights at all.

Mr. Jeff Yurek: To me, I wouldn't think that would be the optimal place for seniors to be placed.

Ms. Jane Meadus: It's not the optimum place, but sometimes it's the only place, unfortunately.

Mr. Jeff Yurek: You mentioned that this bill doesn't help people like Mr. P.S., so do you think that after it's said and done and this bill is passed as is, we're going to be back here in another few years with another P.S. case, possibly?

Ms. Jane Meadus: Absolutely. Mr. P.S.'s case is not over. He absolutely could be back, because he doesn't have any right of review. If this passed today, he would not have a right of review tomorrow.

Mr. Jeff Yurek: Okay. Thank you.

Ms. Jane Meadus: Thank you.

The Chair (Mr. Grant Crack): Thank you, Ms. Meadus, for coming before our committee this afternoon. We appreciate it.

MENTAL HEALTH LEGAL COMMITTEE

The Chair (Mr. Grant Crack): Next we have the Mental Health Legal Committee. I believe we have the chair with us, Mr. Swadron, and another lawyer—that will be great—Ms. Spector.

Interjections.

The Chair (Mr. Grant Crack): I like lawyers.

We welcome you both. You have 10 minutes to make your presentation, followed by approximately three minutes of questioning from each of the three parties. Welcome.

1700

Ms. Karen Spector: Good evening, Mr. Crack and members of the standing committee. I would like to thank the committee for the opportunity to address Bill 122. This is Marshall Swadron, and I'm Karen Spector, and we're here on behalf of the Mental Health Legal Committee.

The MHLC is a province-wide association of lawyers and community legal workers that was founded in 1997 to promote and protect the rights of psychiatric consumer-survivors. Our lawyer members represent clients in all areas of mental health law and at all levels of court, including the Supreme Court of Canada.

The MHLC makes submissions to government respecting provincial and federal legislation, and our lawyer members regularly represent clients before the Consent and Capacity Board and in appeals from the CCB and so deal with the Mental Health Act and the Health Care Consent Act on an everyday basis.

Finally, Bill 122 was introduced in response to the Court of Appeal's decision in *P.S. v. Ontario*. The Mental Health Legal Committee was an intervenor in that case and made oral and written submissions to the court.

The proposed legislation will have a profound impact on some of the most vulnerable members of our society. There needs to be sufficient legal oversight to ensure proper accountability over the state's power to subject persons to long-term psychiatric detention.

The MHLC supports the expansion of the oversight powers of the CCB to safeguard the rights and autonomy and dignity of long-term detainees. However, Bill 122 does not fully address the unconstitutionality of the provisions of the Mental Health Act, and if this bill is enacted as drafted, it would leave the government vulnerable to further constitutional challenge. Therefore, we urge this committee to consider further changes.

In our oral submissions, I will focus on five areas of concern. However, we will be preparing written submissions which will be submitted by November 30. I also want to thank the ministry for speaking with us a few days ago, prior to this meeting.

First, the scope of the CCB's expanded review powers in section 41.1 remains deficient. In particular, the proposed amendments only expand the powers of the CCB when confirming a certificate of continuation. The proposed amendments continue to reinforce the binary, then, between confirming or rescinding that exists in the current Mental Health Act. So although the proposed powers provide some legal flexibility for people who still require detention in hospital, it doesn't address the situation where a patient no longer requires detention in hospital but is not ready for outright release without supports.

Under the proposed amendments, unless a physician recommends a leave of absence or a physician is about to issue a community treatment order, the CCB has no new authority to order discharge to the community short of a direct revocation of the certificate of continuation.

Access to CTOs depends on the availability of resources in the community and a physician willing to super-

vise them, so some patients will remain without access to that means of integration. The decision to discharge a patient into the community with supports then remains within the discretion of the doctor and hospital and is not subject to a review by the CCB.

The CCB would not have jurisdiction akin to the powers of the Ontario Review Board in respect of persons who are conditionally discharged, and this should be addressed. In addition, leaves of absence and CTOs are not the end goals of reintegration; living in the community and accessing mental health and other rehabilitative resources without legal compulsion are. Means of ensuring that all patients have access to community living and appropriate rehabilitative services and supports must be part of the ministry's plan if the changes are to have any kind of practical benefit.

The second concern relates to the barriers that exist in accessing the new powers, and the Advocacy Centre for the Elderly spoke to some of this. The proposed amendments restrict a patient's ability to apply for an order in terms of both timing and frequency. A patient can only access these expanded powers upon the completion of a certificate of continuation and then they are restricted to applying and accessing these powers once every 12 months, unless there's a material change in circumstances.

From the perspective of a vulnerable person, restricting such applications to once a year is not reasonable. A year is a long time when you're detained in hospital.

There's also a possibility that a patient may never reach a certificate of continuation. A patient may be continually detained for long periods of time, but afforded brief periods of voluntary status which then serve to restart the clock on the CCB review process.

This loophole that currently exists is already being misused by physicians who seek to avoid mandatory hearings for long-term patients, and could be equally misused upon the implementation of certificates of continuation.

The amendments do not address the phenomenon of the lack of access to review by persons who are held notionally as voluntary but who would be prevented from leaving hospital if they sought to do so. Such powers would not be available to many long-term detainees, including P.S., who have agreed at times to remain in hospital voluntarily. Such powers should be accessible not only to involuntary patients, but to patients who are voluntary but not permitted to leave—*de facto* involuntary.

Third, we would like to also support the Advocacy Centre for the Elderly in that the composition of the CCB should be broadened to include persons with lived experience in the mental health system. This is important to ensure the patients' perspective is reflected in the CCB decisions and contributes to the expertise of the CCB.

I wanted to point out that the province of Nova Scotia specifies having consumers of mental health services as members of their mental health tribunal. Specifically,

section 65(2)(c) of Nova Scotia's Involuntary Psychiatric Treatment Act provides that the governor in council shall appoint the members of the review board, including from a roster of persons who expressed an interest in mental issues and "preferably are or have been a consumer of mental health services." That's a good example. The province of Newfoundland and Labrador has similar requirements. The MHLC urges this committee to adopt similar language used by these other provinces in respect to Bill 122.

Fourth, the authority to order an independent assessment is also deficient. The MHLC supports the addition of section 41.1(8), which grants powers to order an independent assessment. However, the provision lacks the ability for the CCB to direct the terms, such as the timing and who will bear responsibility for payment of the assessment.

There is also an issue of who conducts the assessment. All parties, including the patient, need to agree to the person ordered to conduct the assessment. The assessment should not be ordered over the objection of the patient. The term "independent" should also be defined, as the assessor should not have any connection to the detaining facility.

Finally, the type of independent assessment that the CCB may order should not be restricted to the enumerated list currently proposed, and should also include, at least, powers to order assessments of a patient's risk, reintegration and educational needs.

The fifth and final concern is that the CCB should not be permitted to order treatment, as provided for in subsections 41.1(4) and 41.1(5). The MHLC is concerned about a situation where there is a treatment impasse between a patient and their attending physician and the patient feels they are not being afforded the appropriate treatment opportunities to progress towards their reintegration.

In those circumstances, the MHLC submits it is necessary for the CCB to have jurisdiction similar to the Ontario Review Board to make orders ensuring that treatment opportunities are provided, including power to explore new treatment opportunities, question a treatment plan, order a re-evaluation of treatment approaches or explore alternative treatments where necessary. This kind of authority will ensure that there is sufficient oversight over discretionary decision-making of doctors and hospitals regarding conditions of detention, including treatment. However, that kind of power that I've described does not amount to jurisdiction to order treatment.

To conclude, we strongly urge this committee to make the necessary amendments to Bill 122 to promote access to justice and ensure that there are adequate safeguards to protect the rights, autonomy and dignity of vulnerable persons. We also emphasize the importance of resources to community reintegration. The amendments will be an empty promise unless the ministry devotes the financial resources necessary to build and maintain community care infrastructure. We await an indication from the government that the necessary resources will be devoted

to the integration of long-term detainees and ensuring their success in the community.

Thank you for your consideration of these submissions.

1710

The Chair (Mr. Grant Crack): Thank you very much. You were right on time. Well done.

We will start with the government. Ms. Vernile.

Ms. Daiene Vernile: Thank you very much for your presentation.

My first question for you is: How will the proposed amendments address the Court of Appeal decision?

Mr. Marshall Swadron: I think that the amendments will certainly require that a long-term detainee receive an additional set of processes and have additional considerations made with respect to their access to services directed toward their rehabilitation.

If we look at the prior powers of the Consent and Capacity Board and the proposed powers of the Consent and Capacity Board with respect to long-term detainees, we can see that there's a broadening of the authority. There will still be some aspects of the court's decision. The Court of Appeal was very clear that this whole idea of a short period of voluntary status or restarting the clock was not an acceptable solution. To the extent that the Consent and Capacity Board right now doesn't have access to people who are held notionally voluntary but de facto involuntary, that gap or loophole is going to remain and the Court of Appeal's concerns about it have not been met.

Ms. Daiene Vernile: We've heard some voices make the argument that the Mental Health Act now is open and we should be doing more to address other issues involving mental health. From your point of view, can you tell us the importance of seeing the legislation having greater focus?

Mr. Marshall Swadron: It depends on what we want to do with our mental health legislation. From our committee's perspective, we see the most important response to mental health needs in the province being one of resources, not the use of legislation to increasingly regulate and increasingly require coercive-type services.

The problem, if we look at it from that perspective, is one of people being met at the wrong place in the continuum of needing care. They're not being met when they want care. There aren't voluntarily accessible and attractive services in the community. They are being met when they don't want care; they're turned away when they seek it. The same problem is there. We don't see services at the right place, which is where people are seeking them.

Legislation isn't going to fix that. That's a question of resources. The more we want to pass laws that regulate this, the more we want to insist that people receive services that are imposed on them as opposed to services that they would seek earlier on in the process—I think we're actually heading down the wrong road.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it.

We shall move to the official opposition. Mr. Yurek.

Mr. Jeff Yurek: Thanks for coming in. Were you part of the consultation process that the Ministry of Health did before creating this bill?

Mr. Marshall Swadron: Approximately two and a half weeks ago, after the bill was already presented—after first reading—we were consulted, and we were happy to participate at that point. We, of course, would have been happy to have input earlier, but it's better late than never.

Mr. Jeff Yurek: I didn't hear any thoughts brought forward at all—what are your thoughts on the new composition of the capacity board, the changes which had nothing to do with the P.S. case?

Mr. Marshall Swadron: We consider them to be responsive, although they go a little further than they have to to deal with the P.S. needs. They do deal with the composition of the board.

We're of the view that the board has to really ensure that it has expertise. Training is one thing, but if you look at, for example, the composition of the Ontario Review Board and you look at the Consent and Capacity Board, some of the forensic-type experience that's presently on the Ontario Review Board may have to be brought in so that people know what resources are available, know how the expertise that we already have in reintegrating people that are long-term detainees in the Criminal Code process—the not-criminally-responsible process—can be brought to bear in the civil process.

Mr. Jeff Yurek: I heard that it's going to be another expense of resources just to deal with this change with the capacity board. I imagine, in the silo of mental health, there's not going to be any money to fill that resource. It's going to be taken from somewhere in the system.

Mr. Marshall Swadron: If I can suggest a few things: It's not necessarily more resources. If you are looking at long-term detainees who may be detained, like Mr. P.S. was, for 19 years, some way to have gotten him out of the system earlier would have saved hundreds of thousands of dollars. So that is not really the issue. We can repurpose a lot of things. We have CTO coordinators, for example. These are a resource, but they're only available to people on CTOs. They could be repurposed. They could be used in additional ways to ensure integration of people into the community successfully.

Mr. Jeff Yurek: Okay. Thank you.

The Chair (Mr. Grant Crack): We'll move to the third party. Ms. Forster.

Ms. Cindy Forster: My question is for Ms. Spector. I wanted to delve a little bit more into your comments about the Consent and Capacity Board not being allowed to order treatment and that a body should be put in place similar to the Ontario Review Board that would address the issue of treatment. How do you see that working? Would it be another board that actually just deals with the issue of treatment based on decisions that come out of the CCB?

Mr. Marshall Swadron: I'll answer, and I think Ms. Spector can add as well.

We're not suggesting that there be some other board. We're suggesting that treatment remain a decision between physicians and capable patients and substitute decision-makers in the event of incapable patients. We're not suggesting that that go anywhere other than to the Consent and Capacity Board. What we're looking at is some of the powers that the Ontario Review Board has and is able to use effectively and making sure that those kinds of powers are also available to the Consent and Capacity Board.

Ms. Cindy Forster: I see. The other question that I had was—well, it was probably more of a comment than a question.

We currently don't have enough resources in the community for people living with mental health issues. In my own community, we had a supportive housing model that we had funding for for 20 years that suddenly ended at the end of 20 years. We now see people with mental health issues who have never had a visit in 20 years to our psychiatric units suddenly cycling in and out of them. So when you talk about having community care infrastructure, are you talking about bricks and mortar or are you talking about programs and support, human resources?

Mr. Marshall Swadron: It's both. If we look at the circumstances of P.S., a group home may have been just what he needed, and it would have been vastly less expensive, when we're talking about resources, than the kinds of services that he had and would have been happy not to have. So that's still a piece that has to be put in place.

I can also add, just by way of update, that Mr. P.S., to my understanding, has actually moved within Waypoint to a secure unit but no longer maximum-secure. I think it is a matter of progress that he's actually held as an involuntary patient as of today. That means he would have access, but it was for months and even years that he just could not access the Consent and Capacity Board.

Ms. Cindy Forster: Thanks. Chair, just before you adjourn, I have one question.

The Chair (Mr. Grant Crack): Are you done the questioning?

Ms. Cindy Forster: I'm done, yes.

The Chair (Mr. Grant Crack): Okay. Thank you very much. We really appreciate both of you coming before our committee this afternoon and sharing your insights.

Ms. Karen Spector: Thank you so much.

Ms. Cindy Forster: I understand that amendments are to be in to the Clerk by noon on Tuesday. When will the Hansard be ready so that each of the parties has the deputations in our hands to actually prepare amendments? I would like to suggest that it be by Friday morning.

The Chair (Mr. Grant Crack): Ms. Forster is requesting that Hansard be made more rapidly available for this committee due to the timelines as set out in the subcommittee report. I'll need to consult.

Interjections.

The Chair (Mr. Grant Crack): With reference to your request, we'll keep in mind that the Hansard from

today should be made available prior to Monday, as we do have another day of public hearings. There is a possibility of that. The committee could request that the Hansard from this particular committee be a priority, keeping in mind that it's always the House that is the priority and what happens in the House takes precedence.

I would ask the Clerk, then, to make Hansard as readily available as possible so that we can move forward with the filing of amendments in the clause-by-clause consideration.

Ms. Cindy Forster: So when can we anticipate receiving that?

The Chair (Mr. Grant Crack): I would say at the earliest convenience, and I will ask the Clerk to ask those responsible for Hansard to provide that as quickly as possible.

Ms. Cindy Forster: I would suggest that this is a very important bill that affects a lot of people who live in our province with mental health issues, and it's pretty hard to actually prepare amendments if you don't have a Hansard in hand of the presentations and the questions and answers that were exchanged here today. So I hope that we actually get it before our cut-off.

Mr. Jeff Yurek: That's fair.

The Chair (Mr. Grant Crack): Okay, thank you very much. There's no further business. I would just ask the Clerk to make Hansard as readily available as possible.

I want to thank you all for the great work that you did, and thank you to the presenters this afternoon. I look forward to seeing you on Monday. This meeting is adjourned.

The committee adjourned at 1722.

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Journal des débats (Hansard)

Lundi 30 novembre 2015

Standing Committee on General Government

Mental Health Statute Law
Amendment Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015 modifiant des lois
relatives à la santé mentale



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 30 November 2015

Lundi 30 novembre 2015

*The committee met at 1400 in committee room 2.*MENTAL HEALTH STATUTE LAW
AMENDMENT ACT, 2015LOI DE 2015 MODIFIANT DES LOIS
RELATIVES À LA SANTÉ MENTALE

Consideration of the following bill:

Bill 122, An Act to amend the Mental Health Act and the Health Care Consent Act, 1996 / Projet de loi 122, Loi visant à modifier la Loi sur la santé mentale et la Loi de 1996 sur le consentement aux soins de santé.

**The Clerk of the Committee (Ms. Sylwia Przedz-
ziecki):** Good afternoon, honourable members. Owing to the absence of both the Chair and the Vice-Chair, it is my duty to call upon you to elect an Acting Chair. Are there any nominations?

Ms. Ann Hoggarth: I'd like to nominate Daiene Vernile, please.

**The Clerk of the Committee (Ms. Sylwia Przedz-
ziecki):** Does the member accept the nomination?

Ms. Daiene Vernile: Yes, I do. Thank you.

**The Clerk of the Committee (Ms. Sylwia Przedz-
ziecki):** Okay. Wonderful. Are there any further nominations?

There being none, I declare nominations closed and Ms. Vernile duly elected as Acting Chair of the committee. Will you come and please take the chair?

The Acting Chair (Ms. Daiene Vernile): The Standing Committee on General Government will now come to order. Good afternoon, members, and welcome to all of our stakeholders who are here with us this afternoon. We are here to discuss Bill 122, An Act to amend the Mental Health Act and the Health Care Consent Act.

We have our first delegation here—

Mr. Jeff Yurek: Point of order.

The Acting Chair (Ms. Daiene Vernile): Yes, Mr. Yurek?

Mr. Jeff Yurek: Before we get into deputations, just quickly to raise a point of order for Hansard: We received this letter from the Ministry of Health. My question to them was whether or not they consulted with the Ontario Medical Association in drafting this bill. They've sent a letter saying they did on September 24. This bill was read in the Legislature on September 23. So the point is that they did not consult with the OMA

during the development of this bill. I just wanted to bring that forward after reading this letter we received—

The Acting Chair (Ms. Daiene Vernile): Mr. Yurek, that is not a point of order.

REGISTERED NURSES'
ASSOCIATION OF ONTARIO

The Acting Chair (Ms. Daiene Vernile): I would like to call now on our first delegation: the Registered Nurses' Association of Ontario. Please come forward. Make yourselves comfortable. You will have 10 minutes to speak to our members. Begin by stating your names and start anytime.

Mr. Tim Lenartowych: Wonderful. Thank you very much, Madam Chair. My name is Tim Lenartowych. I'm director of policy with the Registered Nurses' Association of Ontario. I'm also joined by my colleague Dr. Michelle Acorn, nurse practitioner. Michelle is the lead nurse practitioner at Lakeridge Health in Whitby. We both extend our gratitude to the standing committee to be able to provide our feedback on Bill 122. I will begin our presentation and will ask Dr. Acorn to share her experiences as a practising NP. Also, I'll refer you to a written submission that we've also provided that goes into greater depth on our remarks.

RNAO, of course, as you likely know, is the professional association that represents registered nurses, nurse practitioners and nursing students within Ontario.

RNAO understands that Bill 122 is in response to a court decision and that a deadline is looming. However, the Mental Health Act was first passed in 1990. This statute has not kept pace with the dramatic evolution of the health system. Today, the treatment of mental illness has transitioned away from a biomedical focus to one that is person- and family-centred, interprofessional, holistic and recovery-focused.

In the context of Bill 122, we are here to offer some pressing improvements that we feel will enhance the effectiveness of the bill for Ontarians. However, we also urge the government to undertake a more thoughtful update of the Mental Health Act, with meaningful consultation with a broad range of stakeholders, including those people with lived experience as well as their families.

RNAO welcomes provisions in Bill 122 that will enable nurse practitioners to serve as clinical members on

the Consent and Capacity Board. Nurse practitioners are highly educated and experienced professionals who are involved in the assessment of patient consent and capacity on a daily basis, as well as the treatment of mental illness. They will make exceptional clinical additions to the CCB panels to respond to all matters within the CCB jurisdiction.

However, there is a glaring gap in Bill 122 regarding the composition of the CCB panels, and that is the admission of registered nurses. The role of the RN has been growing, and it is reflected in the baccalaureate entry-to-practice requirement as well as the imminent scope-of-practice enhancements that have been committed to by Premier Wynne as well as Minister Hoskins. We know that there are over 4,000 RNs that focus specifically on mental health within the province. These RNs have developed clinical expertise through education and extensive experience. They are often the first point of contact for persons receiving in-patient psychiatric care, and provide long-term follow-up and monitoring for those with chronic mental illness.

Many of these RNs are educated at the graduate level, and also there are over 1,000 in Ontario who are voluntarily certified in psychiatric and mental health nursing. Thus, we recommend in the strongest possible terms that Bill 122 be amended to enable RNs with expertise in mental health to seek appointment as clinical panel members on the Consent and Capacity Board. Appointment to the board occurs through a competitive merit-based process and we trust that the CCB will appropriately assess any application made by an RN, a nurse practitioner or a physician to ensure that the integrity and the expertise of the committee is strengthened.

While the government indicates that the intent of Bill 122 is narrowly focused on the implementation of a court decision, RNAO is compelled to identify a serious patient and public safety risk outside of this decision and the opportunity to remedy it through an amendment to Bill 122. At present, section 15 of the Mental Health Act authorizes a physician to complete an application for psychiatric assessment, known to us as a form 1, under conditions where there is reasonable cause to believe that individuals are at a serious risk of harm to themselves or to others through an apparent mental disorder.

NPs are autonomous professionals and often practise in isolated areas with vulnerable populations. Given that NPs serve as entry points to the health system for thousands of Ontarians, such as through nurse practitioner-led clinics, emergency departments, long-term care and community clinics, RNAO feels that restricting the ability to initiate a form 1 to physicians presents a significant safety hazard. At present, if a patient who appears to be suffering from a mental illness presents to an NP, indicating that he or she is at risk of harming themselves or someone else, the NP is severely limited in their response, posing a risk to the individual accessing care as well as the community.

Authorizing NPs to initiate a form 1 is consistent with the scope of practice of nurse practitioners and aligns

with the evolution of the health system. It promotes putting patients first, especially their safety, and it protects the public interest. It improves access to greatly needed care, and it will increase the safety for families and individuals in the community.

Thus, we urge the committee to revise Bill 122 to amend section 15 of the Mental Health Act to authorize NPs to initiate an application for psychiatric assessment, also known as a form 1.

Once again, RNAO greatly appreciates this opportunity and asks for your consideration of our feedback.

It's now my pleasure to ask Dr. Acorn, nurse practitioner, to speak to the impact of RNAO's feedback from a clinician perspective.

Dr. Michelle Acorn: Great, thank you. Good afternoon, everybody. My name is Dr. Michelle Acorn and I'm a nurse practitioner. I'd like to thank the standing committee for the opportunity to contribute as a front-line clinician to RNAO's expert analysis and recommendations to strengthen Bill 122.

In my practice, I work as the lead nurse practitioner at Lakeridge Health in Whitby, as the most responsible provider where patients are admitted under my care and other nurse practitioners' care directly. This is at the Whitby site, which is also a nurse practitioner-led hospital, as you're aware. Patients are admitted under our care throughout their hospital course, from admission and treatment until discharge.

I regularly assess my patients' capacity to provide informed consent for care delivery. I have the ability to appear before the Consent and Capacity Board to inform panel deliberations. I am there to provide an expert clinician voice on consent and capacity issues. However, until now, I am not able to seek a professional appointment to this board.

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The health system is rapidly changing, and access to timely and expert board hearings is critical. Nurse practitioners are ready to participate in the existing comprehensive, merit-based competitive process for professional appointment, and I urge you to support this provision within this bill.

I care for patients on a secured dementia unit, among many other populations. Most of these seniors are afflicted with chronic diseases, including mental illness. The responsive behaviours of dementia are managed by both non-pharmacological and pharmacological options. If de-escalation is unsuccessful, the safety of patients, families and staff can be compromised.

In episodes of delirium—you may know it as acute confusion—and psychosis, patients may require a form 1 to be completed for psychiatric assessment. As Mr. Lenartowych mentioned, currently only a physician can complete these mental health forms. This affects access, accountability and consistent care. The patient's experience is fragmented, and care duplication results.

How is the patient affected, more importantly? They must be transferred to another hospital to be assessed in the emergency room and then by psychiatry to complete

a form 1. The therapeutic relationships and the established goals of care are undermined due to system gaps.

I also provide long-term-care nurse practitioner support in the community. With the new attending nurse practitioner positions advanced by RNAO and funded by the ministry, it would be a shame to continue to hamstring nurse practitioners by legislative barriers, despite possessing the knowledge, skill and judgement to assess and complete the necessary mental health forms. Indeed, a senseless waste of human resources, access delays resulting in sub-optimal patient experiences or harm by the need to transfer care, and blurred professional accountabilities would be the ripple effects.

The Acting Chair (Ms. Daiene Vernile): You have one minute to go.

Dr. Michelle Acorn: The solution is to enable full scope of practice to facilitate consistent and comprehensive navigational access to safe and quality mental health care for Ontarians. This must include authorizing nurse practitioners to complete the necessary mental health forms.

Imagine if you or one of your loved ones was in distress and came to the nurse practitioner. This could be the one window of opportunity to ensure safety and quality of life. What would happen if this moment was lost? Thank you.

The Acting Chair (Ms. Daiene Vernile): Thank you very much, Dr. Acorn. We now have some questions for you, but first I would like to ask our members or anyone who is sitting in the room today if you find the photography distracting. I've been asked to put this before you. Are you okay with having your pictures taken? Okay.

Our first questions for you are from our PC caucus.

Mr. Jeff Yurek: Thank you very much, Chair. You're doing a wonderful job so far—

The Acting Chair (Ms. Daiene Vernile): Thank you kindly.

Mr. Jeff Yurek: —even though you ruled me out of order.

Laughter.

The Acting Chair (Ms. Daiene Vernile): Keep trying.

Mr. Jeff Yurek: Thank you very much for coming in today. It's interesting as we see the evolution of nurse practitioners, as they take a greater scope of practice in our communities. I wouldn't mind if you could touch a little bit more on filling out a form 1 and the necessity in rural and northern areas. If you can touch upon the reasoning—how hard it is to actually get a hold of a doctor?

Mr. Tim Lenartowych: Well, first off, the one option is that you could try to seek a physician for that. You'd have to do it, of course, in a timely manner, because the individual may be in a state of distress—and that isn't always possible. As you wait for that physician, the individual is free to leave of their own free will because they're not under a form at that time.

The other options anywhere, really, but not just specific to rural areas, could be you could go before a

justice of the peace to seek a form 2, which in the context of having a patient there in your setting at that particular period of time is completely unrealistic. The third and probably more probable option is you can involve the police, which can have very significant impacts on your therapeutic relationship with the client. Certainly from our perspective, we want to see these individuals receiving care within the health care system, not necessarily having to go through the police to get that. I'm also sure that there are some members of the police who may be hesitant to provide that assistance, given the fact that they may then have to stay in the emergency department for several hours or however long to accompany that individual.

Dr. Michelle Acorn: Thank you, Tim. I would add to that, too. As the nurse practitioner, we are the most responsible provider, given any setting: community, rural, urban, hospital—long-term-care and retirement homes as well. If you're practising in a community health centre, a family health team, a nurse practitioner-led clinic, a hospital or in long-term care, whether it's urban or rural, the nurse practitioner knows the patient. They have a therapeutic relationship established with them. They know their baseline and their health trajectory, as well, and are able to assess capacity and elements of risk and an effort to de-escalate that. They certainly are able to complete the form 1, and obviously they would try to mitigate that if all else is possible, but if a safety issue or threat is in place, that could be easily utilized right now. We complete many other forms, and mental health should be one of those as well.

The Acting Chair (Ms. Daiene Vernile): Our next set of questions for you are from our NDP caucus.

M^{me} France Gélinas: I will ask you a question—I think you started to answer my question even before you heard it.

Dr. Michelle Acorn: Good.

M^{me} France Gélinas: There is a group of people out there who are very opposed to having their loved ones or themselves having a form 1. They're very opposed to this. So when we look at bringing in a nurse practitioner being able to sign a form 1, they see this as a form of—"There's going to be more and more of those, they're not going to be appropriate and this goes against our liberty." What can you tell those groups to reassure them?

Dr. Michelle Acorn: It kind of goes parallel with informed consent and capacity for decision-making, which we're able to assess as well. But if there's an imminent threat of danger, many times when we establish a relationship with patients, we go over what the areas of concern are, and safety being one of those in terms of when we actually need to bring in safety institutes at that point in time. So we certainly are able to do that. We would communicate that as well, but also we have to ensure safety, and we're continuing with the patient along that line.

Tim, what would you add to that?

Mr. Tim Lenartowych: I think the primary objective of any health care provider, whether it be a nurse

practitioner or an RN, is to provide patients with clear and open communication, and if you're approaching it from a patient safety perspective, I think you might get better receptivity to it and also—the intent of a form 1 is, at most, a 72-hour involuntary admission, and in that time it's really meant to generate an assessment. So not to try to minimize those concerns as, “Well, it's only 72 hours”—but certainly there would be opportunity within that 72 hours if patients and families strongly agree that they could have that opinion voiced and addressed.

M^{me} France Gélinas: And would that be for every primary care nurse practitioner or would it only be for nurse practitioners who have the extra psychiatric training?

Dr. Michelle Acorn: No, it would be for every nurse practitioner. I'm actually both a primary care nurse practitioner and an adult nurse practitioner as well. So if you have the knowledge, skill and judgment to be able to do a mental health assessment, certainly it would include those as well.

Obviously, if somebody didn't feel that they had the confidence to do that, we practise in an interprofessional arena so you'd be collaborating with anybody along the way that you didn't feel—just like when you instituted the form 1, obviously you're going to be working with a full interprofessional team to continue on—perhaps maybe that wasn't required or it no longer is required and could be discontinued.

The Acting Chair (Ms. Daiene Vernile): Our final questions for you are from our Liberal caucus. MPP McMahon.

Ms. Eleanor McMahon: Thank you very much for coming today, and thank you for the work that you do as well. I think it's remarkable and important.

In your presentation—there was a lot in there. It's very substance-driven. You talked about issues regarding access, accountability and consistency of care. Would you mind expanding on that a little bit? I think you were talking about it in the context of the form 1 situation.

Dr. Michelle Acorn: For example, I work at Lake-ridge Health Whitby where patients are admitted under my care as a nurse practitioner. I'll give you an example of a secured unit right now. If there is a point where safety is threatened to the point of physical violence for patients, staff or families at some point in time, if we are not able to de-escalate that, we try through non-pharmacological measures. We've all been trained in many, many things such as gentle persuasion or sometimes different medication modalities. We try to do a de-escalation first. Very rarely, to be honest with you, in my 27 years of practice, have I ever had to get to that point, but there have been three points. I've also had a youth—we look after people who have mental health challenges—who needed to have emergent ECT therapy, for example. We worked with the patient and the family when they were no longer able to care for themselves and make those decisions. The result was working with a physician at that point in time, a psychiatrist who received a form 1. We did share care because the patient

wanted me to remain in their care, and we were able to transfer them to receive emergency ECT on a form and then transfer them back. To this day, he remains in contact with me and thanks us for saving his life and being involved in his care in a respectful, dignified way. But that was a safety threat, where he was at risk of dying.

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The Acting Chair (Ms. Daiene Vernile): Thank you very much. I thank you very much for coming and speaking before this committee today. I invite you to take a seat in our audience, if you wish to.

ONTARIO HOSPITAL ASSOCIATION

The Acting Chair (Ms. Daiene Vernile): I would like to call on our next presenters, from the Ontario Hospital Association. Please come forward. Have a seat. Make yourselves comfortable.

Please begin by stating your names and start anytime.

Ms. Kristin Taylor: My name is Kristin Taylor and I'm vice-president of legal services and general counsel at the Centre for Addiction and Mental Health. Here with me today we have Robert Desroches, vice-president, clinical services, at Waypoint Centre for Mental Health Care; and Kendra Naidoo, who is legal counsel at CAMH, along with myself.

We're here today on behalf of the Ontario Hospital Association, a body that represents Ontario's 147 publicly funded hospitals. The OHA and its member hospitals support the ongoing commitment to improving mental health care across the province and appreciate the opportunity today to speak to the standing committee regarding Bill 122.

To begin our comments, we want to stress our ongoing commitment to ensuring that mental health patients receive the care and services that are the most appropriate for them. We also fully acknowledge and accept the importance of ensuring that the legal rights of our long-term involuntary patients are met throughout the course of treatment and, as such, support the principled approach to the amendments leading us to Bill 122.

It's our shared and ultimate goal to have our patients recover such that they can return to the community and live full and fruitful lives. In order to support the work of the standing committee, we will present four recommendations for you to consider, recommendations that we believe will strengthen the proposed legislation while also ensuring that hospitals are appropriately situated to continue providing the best care to our patients.

Mr. Robert Desroches: Thank you, Kristin. The first area that I'm going to cover is delivering appropriate care and minimizing risk to patients. Ensuring long-term involuntary patients are safe and receive care that is appropriate to their needs is the primary concern of Ontario's mental health facilities.

While the OHA understands that the intent of Bill 122 is to offer additional procedural protections for patients when they are detained under the Mental Health Act, we

also believe that it is important not to disrupt the clinical relationship between a psychiatrist and patient. We believe this clinical relationship is vital to ensuring that there is sufficient flexibility to respond to patients' needs in real time.

The focus of the clinical team at a mental health facility is to try to improve the patient's condition and ultimately reintegrate patients back into the community. The OHA believes that the clinical team's judgement is critical and should be the key consideration in these cases.

The OHA supports the inclusion of specific references disallowing the Consent and Capacity Board from directing or requiring a physician to provide any treatment to the patient, and the patient to submit to such care. However, as written, the proposed Consent and Capacity Board authority may interfere with the clinical team's discretion to develop the patient's plan of treatment on an ongoing basis.

The granting of leaves of absences, changes in security levels and privileges, and decisions regarding supervised and unsupervised community access all have an important clinical dimension. The OHA believes that Bill 122 should be amended to ensure that orders are made with the final determination to be left to the discretion of the clinical team.

Ms. Kristin Taylor: In keeping with my colleague's comments regarding the clinical context of our patients being a prioritized consideration for the CCB, our second recommendation is focused on how Bill 122's procedural framework can assist us in doing that.

Bill 122 sets a very high threshold for hospitals that may wish to vary an order of the CCB. Specifically, a hospital is only able to vary or change an order if the implementation of the order would cause a significant risk of harm. It is our view that this threshold is too high, and I'd like to give an example. In this example, CAMH is ordered by the CCB to provide patient X with an unescorted pass into the community. However, on a specific day, the patient is telling his clinical team that he wishes to abscond or go AWOL. The clinical team is of course concerned by this and doesn't believe that a pass is the appropriate thing to do on that day. However, they would not assess the risk of this to be significantly high to the extent that it would meet the threshold presently defined in Bill 122.

Decisions relating to placement, privileges, community reintegration, assessment and treatment are all part of clinical judgment and are adjusted in accordance with the clinical progress of the patient. These decisions are made on an ongoing basis and may fluctuate frequently.

As presently written, the process for varying or rescinding a CCB order would require an application to the CCB. It's our view that this is an onerous process and a drain on our scarce resources.

Our recommendation to you would be to replace that threshold with a more flexible process that would allow the clinical assessments to determine the process of the CCB orders and determine whether or not they're appro-

priate to the patient as they present in the moment to the clinical team.

Our third recommendation is addressing the proposed changes to the CCB's focus and mandate. In Bill 122, the CCB is given very similar authority to that of the Ontario Review Board, an administrative tribunal with an oversight role for individuals detained in hospital after an interaction with the criminal justice system.

While the OHA supports providing the CCB with the authority to ensure that patients' fundamental legal rights are protected, we're concerned that the focus and mandate of the ORB are sufficiently different than those of the CCB. As such, using an equivalent ORB analytical framework in CCB decisions is not appropriate.

The ORB's focus is on criminal conduct that's deemed to be a risk to public safety. It's our view that this framework, applied to a long-term involuntary patient under the Mental Health Act, is not appropriate. While involuntary patient status under the Mental Health Act can relate to risk of serious harm to oneself or to others, it typically relates, in long-term patients—to applicable where they are hospitalized to prevent a serious relapse.

The OHA believes that it's crucial to account for the contrasting philosophies and purposes behind the CCB and the ORB review processes. The very language of public safety in Bill 122 creates a whole distinct set of considerations that relate to criminal conduct and punishment, that does not apply in the civil mental health context. This may serve to further stigmatize our vulnerable patients.

The OHA would recommend that Bill 122 be amended to focus on the treatment prospects of involuntary patients and remove language referring to risk to public safety.

Mr. Robert Desroches: The final recommendation we'll be making today relates to the system capacity and hospital resources. This is an important consideration to ensure that Bill 122 is implemented successfully.

The OHA supports the requirement for the CCB to consider the ability of the psychiatric facility or facilities to manage and provide care for the patients and others. This will help to ensure that hospitals have the ability to implement the CCB's orders.

At the same time, it is important to stress that the proposed framework will increase costs, and hospitals have limited ability to absorb these additional costs. Staffing resources remain an important concern with respect to Bill 122. Staffing ratios are carefully calibrated to reflect a patient's needs, the safety of staff and to manage risk. CCB orders have the potential to disrupt these ratios where there are orders to change security level or detention conditions. Hospital staff are also needed for escorts and supervision where there are orders for community access. It is unclear who will offer or bear the cost of vocational, interpretation and rehabilitative services where the hospital does not have them in place.

With respect to system capacity, the OHA is concerned that the CCB orders may impact patient flow. In particular, capacity and the provincial forensic pro-

grams may be impacted where the CCB deems these forensic beds to be the appropriate places for civilly committed patients. Transfer orders also have the potential to impact capacity at individual hospitals, as the ability to take on new patients may be limited.

The OHA recommends a careful assessment of system capacity, staffing resources and patient needs be conducted, including the impact of the proposed changes to the Mental Health Act. Decisions cannot be made in isolation. The available resources for vocational, interpretation and rehabilitative services must also be considered.

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The Acting Chair (Ms. Daiene Vernile): You have one minute remaining.

Mr. Robert Desroches: Okay. We hope you have found our comments helpful. Thank you for your time. We're pleased to answer any questions.

The Acting Chair (Ms. Daiene Vernile): Thank you for wrapping up and being right on time. Our first questions for you are from MPP Gélinas.

M^{me} France Gélinas: Thank you very much for your presentation and for the recommendations. They are very useful to us, as we draft amendments.

In your last comments, you were really concerned about resources. Were you consulted before the changes in the tabling of Bill 122?

Mr. Robert Desroches: Do you want to take that?

Ms. Kristin Taylor: We were able to provide feedback. I believe that the OHA was consulted, to the extent that they provided feedback—after the bill, I believe, had been introduced, though.

M^{me} France Gélinas: Okay—

Ms. Kristin Taylor: Oh, they say it was before. Sorry.

M^{me} France Gélinas: Okay. I would be interested in knowing if you were consulted before, because you would have been the only one. We haven't found anybody who has been consulted before. Everybody saw the bill, and then dialogue started. If you have been consulted before, please let us know.

The bill was introduced a little bit over a month ago. We've been talking about it. Have you had an opportunity to look at the financial impact that would have on your organization, or on the hospital mental health system as a whole? A piece of legislation is not that useful if you don't have the resources to carry it out.

Mr. Robert Desroches: I will respond to that question. I would say no; I don't think we've looked at those specific numbers.

As referenced in the presentation, there are concerns about the implications. For example, if the Consent and Capacity Board were to order certain privileges—for example, for a patient to go into the community—and if it wasn't at the discretion at the hospital, and we're having to implement those privileges, that may come at a cost to operations by having additional staffing resources escort that patient into the community. I think that is a primary example.

What the specific cost implications would be—I think that time will tell for that, but I'm confident that there would be cost implications if there is not discretion left with the hospital.

Now, discretion left with the hospital, I think, has to be in the best interests of the patient as well. There's a balance to be achieved there as well.

The Acting Chair (Ms. Daiene Vernile): Thank you very much. Our next questions for you are from our Liberal caucus. MPP Hoggarth.

Ms. Ann Hoggarth: Good afternoon. Thank you for your presentations. My uncle was a guard at the old hospital and lived on the road below, so I spent a lot of summertime there and loved it there.

I understand that the Ontario Hospital Association mental health council was consulted twice about this bill, on August 11, 2015, and September 18, 2015. I know that, like you, our Minister of Health—one priority for all of us is the protection and the safety of all Ontarians.

I just want to ask you a question: Could you please explain your proposal and why it's necessary?

Mr. Robert Desroches: A specific element of the proposal, or one in particular?

Ms. Ann Hoggarth: No. You gave recommendations and I had some difficulty following them, because in your brief, they weren't in the same order. Could you briefly tell the committee how the proposal balances patients' rights with your organization's duty to care for the patient?

Ms. Kristin Taylor: The recommendations, as they are—I do acknowledge that the submission numbers are different from the numbers that we discussed. We wanted to highlight the ones that we felt would be most helpful for the standing committee.

I think what we first and foremost acknowledge is that the recent decision of the Court of Appeal has now provided the requirement that certain legal rights be afforded to our long-term involuntary patients. We fully accept that, and we're moving forward with the assumption that there will be an extra step.

The purpose of our recommendations is to bring the amendments that are going to come to us to a level so that they are very practical for the hospitals and actually implementable—if that's a word—so that we can go forward, when we receive an order from the CCB, with the best intentions for our patients, understanding that the clinical care is first and foremost.

The Acting Chair (Ms. Daiene Vernile): Thank you very much. Our final questions for you are from our PC caucus. MPP Yurek.

Mr. Jeff Yurek: Thank you again, Chair. Thanks for coming in today and giving us a lot to think about.

Maybe you can clarify a point that was raised last week. There were a bunch of patient advocates in who spoke, and their concern with changes to the CCB was the way it's worded in the document. It seems you may have fixed it here with your one recommendation that if the board gives a direction for patient care and/or the patient refuses or the doctor needs to make a change in

order—their concern was you'd have to come back and reconvene the board in order to make that change; otherwise; they'd run afoul. Is that a concern at all, or is recommendation 3 taking care of that?

Ms. Kendra Naidoo: The recommendation to change the language of the provision that says that any orders shall be at the discretion of the officer in charge is targeted at addressing that concern. It gives some scope, as has been articulated, to respond to the changing clinical needs of the patient, both from the treatment team's perspective and from the patient's perspective. That's consistent with the discretion that the ORB currently gives to clinical teams, where all of their orders for passes, privileges or access to the community are made subject to the discretion of the hospital.

Mr. Jeff Yurek: Thank you. They also made mention last week that they think the bill is lacking certain legal input, that we're going to have another case like P.S. in the next year or so and that this bill isn't really addressing those situations. Do you have any comment? Has that come across your plate? I'm speaking of the lawyers' side of things here, sorry.

Ms. Kristin Taylor: I don't think so, at this point. I would certainly hope not, knowing how long that case dragged on, to be back at it again. I think what is being proposed with respect to the charter protections in this new legislation is very clearly there. In fact, I think what our submissions are attempting to do is to balance the protection of the rights, as I said, to the needs of the hospital to be able to operate but, more importantly, to be able to address the needs of the patient in the moment.

The Acting Chair (Ms. Daiene Vernile): Thank you very much. We invite you now, if you wish, to join the public gallery.

CANADIAN CIVIL LIBERTIES ASSOCIATION

The Acting Chair (Ms. Daiene Vernile): I will now call on our next presenter, from the Canadian Civil Liberties Association. Please come forward. Make yourself comfortable. Begin by stating your name and start any time.

Ms. Noa Mendelsohn Aviv: Thank you very much, Madam Chair, members of the committee. My name is Noa Mendelsohn Aviv. I direct the equality program at the Canadian Civil Liberties Association.

I have personally been involved and our organization has been involved in a number of mental health issues over the years. Alan Borovoy, who was the head of our organization for many years, made submissions on Bill 68, known as Brian's Law, in 2000. I made submissions on a similar bill in Alberta, Bill 31, the Mental Health Amendment Act, in 2007. I think most significantly for the purpose of this committee hearing, I worked with counsel on our submissions in the P.S. case, which you've likely heard quite a bit about and which led to the Ontario Court of Appeal last year declaring that provisions of the Mental Health Act were unconstitutional. I'll talk about that in a moment.

I want to just remind everybody on the committee—and I assume you've heard this before so I'll keep it brief that Mr. S. was locked away for 19 years. Some would say he was warehoused; some would say that they locked him up and threw away the key.

While there, almost no one knew about his circumstances. His lawyers knew—came to know; his doctors knew. Mr. S. had a hearing impairment, he had a mental health issue, he had a criminal record and he'd had a terrible childhood. Due to those various factors—the lack of interpretative services, and the fact that he was in a maximum-security facility, which was inappropriate for his needs, as found by his doctors, as found by the CCB itself, the Consent and Capacity Board—he was unable to get the services that he needed. He was unable to get the treatment that he needed. He was subjected to invasive assessments. He agreed to engage in invasive treatments—one was called phallometric testing; that may give you an idea of just how invasive it was—even though he couldn't participate in it fully because there was a sound component which he couldn't hear.

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And for all that, no appropriate services were offered for 19 years—or inadequate services—as found by the Court of Appeal. For all of that, even when he was brought before the Court of Appeal last year, and even though the Court of Appeal was horrified at what they learned, as I imagine members of this committee may have been horrified when they heard his stories—I certainly was—even at the time of that decision, he was still being held in those conditions because the board lacked the authority. There was no legal authority to address his various liberty interests. We need to be absolutely clear: These are liberty interests, which is section 7 of the Canadian Charter of Rights and Freedoms. It is that charter and that section 7 that was violated in the case of Mr. S.

Mr. S., and people like him, are held behind closed walls, with limited resources, limited access to the public, and they need access to justice. The Ontario Court of Appeal, in striking down provisions of the Mental Health Act, said that those provisions violated section 7 of the charter “by allowing for indeterminate detention without adequate procedural protection of the liberty interests of long-term patients.”

It's those adequate procedural protections that I want to speak about with respect to Bill 122 today. If we want to put it in other and simple terms, access to justice must be provided—that's what the court said—and it must be provided in a timely and a meaningful manner to long-term detainees in psychiatric facilities. It's their only chance.

We're concerned that this fundamental requirement—it's what the court ordered last year—has not sufficiently been met in this bill. Therefore, the constitutionality of the act will still be at issue.

First and foremost, I think we need to speak to timeliness. It's a procedural matter but a really important one. Justice delayed is justice denied. Having to wait a

year to get an interpreter, having to wait a year to be placed in the appropriate security setting is a very long time. That's what Bill 122 has to offer. The board is precluded from hearing an application for a remedy under section 41.1 if they've made an application for a remedy—one of these special remedies—within the previous 12 months, unless there has been a material change in circumstances. So, Mr. S. would not have been able to come forward for 12 months to ask, once again, to be moved to the appropriate facility. This, obviously, is a matter of residual liberty interests and, as I said before, it's an unacceptable restriction on access to justice.

And I should point out what, I think, must be an error in the bill. The bill doesn't even say that if you went forward and asked for the same remedy under section 41.1 you can't come forward for another 12 months. It says if you come forward and ask for any remedy under that section, you can't come back to the board for one of these special remedies.

I should add as well that there's an imbalance that's not clear to us. The officer in charge can ask for a cancellation or a variance of an order, and the board can set a date and time if it came from the officer in charge of the facility. But if the individual who is living with the consequences of these decisions says that there's a material change and asks to vary or cancel an order, they have to wait for their next review, which might be three months away, and there isn't even a provision for extreme, exceptional or exigent circumstances. So what we recommend, obviously, is to remedy that. Allow the individual, ordinarily, to make their case every three months on their regular review, allow them to ask for special remedies at that time, and allow for exigent circumstances.

Secondly, the authority granted to the Consent and Capacity Board within Bill 122 is certainly an improvement over what it had. It's no longer restricted just to transfer. However, that authority does not apply to all real long-term detainees. Mr. S. himself was considered, at the time that he came before the Court of Appeal, on a voluntary but certifiable status, which means that he was voluntary until he tried to set foot off the premises and then he would have to deal with whatever, from his perspective, frightening occurrence might take place to return him.

Also, if the clock is stopped because, for example, at one point or another, consent is provided or a person's substitute decision-maker provides it, again, that person's status is voluntary.

The point is that people who are spending their time in a psychiatric facility on a long-term basis should be under the auspices of the Consent and Capacity Board. This was one of the matters that was at issue in the P.S. case, and it could be rectified here in this bill by giving the board authority over individuals like that as well, regardless of status. That's our recommendation.

Finally, as to the composition of the Consent and Capacity Board, we think that there is room for this committee to remedy and rectify what is written about the composition, to include a mental health perspective.

Currently, the composition of the CCB is simply a lawyer, a doctor and another person or two lawyers, two doctors and another person. What we're suggesting and recommending is that the perspective of the mental health community—both from the medical perspective but certainly from those with a lived experience of the mental health system—should be included in that composition.

On a substantive note—I'll mention them very quickly because I assume I have just a little bit of time left—a few issues where the Consent and Capacity Board does not have sufficient authority to grant the remedies that a person might need: First and foremost, the CCB lacks the authority to supervise the issuance of a community treatment order or, preferably, to order the creation of a non-coercive community-based treatment plan. This is a huge loss. An individual who is in a long-term facility who may be able to get a non-coercive community treatment plan or a CTO should not be spending their time locked up. And this, if we're talking about costs, would be a huge improvement not just for the lives of people who are in these facilities, but also a huge improvement in terms of what it costs the province.

The Acting Chair (Ms. Daiene Vernile): You have one minute remaining.

Ms. Noa Mendelsohn Aviv: Thank you. There is another, I think, error: that the CCB can, of its own volition, order an independent assessment of a person's mental condition, but the individual cannot request such an assessment. More significantly, the CCB is not given the authority to order treatments, medications or therapies, but only vocational, interpretation and rehabilitative services.

The CCB has a doctor in its composition. That's part of what's there. They don't need the advice of a physician. That's another recommendation that we wanted to make. What the CCB needs to be able to do is provide the full gamut. They need the flexibility to tailor to each person the least restrictive, least intrusive means. This is a person whose liberty has been taken away from them; it should be taken away as little as possible. That's our constitutional order. That's what we provide to other people in our community in various circumstances.

The Acting Chair (Ms. Daiene Vernile): Thank you, Ms. Mendelsohn. We're going to go to our questions now, beginning with our Liberal caucus. MPP Milczyn.

Mr. Peter Z. Milczyn: Thank you, Ms. Mendelsohn Aviv, for your presentation this afternoon. It was very informative.

Could you explain to members of the committee your position vis-à-vis the need to further enhance the ability of somebody to seek a review? The legislation does allow for a patient to request a review when there's any material change in their circumstance. That could be any number of things; I'm not going to list the entire gamut of it.

Is that not sufficient? Because otherwise, I don't really understand your position. Your position could be that every week, somebody could ask for the same remedy

that was just denied a week ago. I don't mean to make light of that, but I don't understand how this proposal is insufficient.

Ms. Noa Mendelsohn Aviv: If I think about the details of Mr. S.'s life when he was warehoused in the facility at Waypoint—and he was getting these treatments and getting these invasive therapies—three months is a long time; 12 months is unconscionable in my view. Even if his circumstances haven't changed, even if his functioning hasn't changed, he may come to a point where he wants a reconsideration and a review. It is his liberty and his life that's at stake. This is where and how he's living his life. It's not a circumstance that I think any of us would want, and I think we want to provide maximum protection.

It would be within the power of the CCB to say, "We've looked at this before and what we're seeing is the same," but I think that being able to bring it back before the board would be very important.

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Mr. Peter Z. Milczyn: You also mentioned in your presentation, I believe, that there wouldn't be any need to provide the medical evidence of the people actually giving the care and simply allow the members of the board to make medical determinations. I'm not a doctor, but it would seem to me that the person or persons who actually provide the care might have a broader understanding of what's going on than somebody just reviewing a file.

Ms. Noa Mendelsohn Aviv: Right. I apologize. I was rushing and that did not come out, obviously, the way I had intended. That wasn't what I was trying to say.

There is a provision with respect to leaves of absence, that they can only be granted on the advice of a physician—

The Acting Chair (Ms. Daiene Vernile): I apologize. I have to move on to our next set of questions.

To our PC caucus. MPP Yurek.

Mr. Jeff Yurek: Do you have much to say on that? I'll let you finish.

Ms. Noa Mendelsohn Aviv: Only to say that I absolutely think that physicians should be consulted, including the attending physician. There are circumstances in which abuses of various kinds, intentional or unintentional, are taking place. It's important that the CCB be able to act independently and not be dependent on receiving the advice of another physician. It is within their power to order an independent assessment. They should be able to make independent decisions as well, but they certainly—I agree—should be hearing evidence from attending physicians and otherwise.

Mr. Jeff Yurek: Thank you for that.

Ms. Noa Mendelsohn Aviv: Thank you for the opportunity.

Mr. Jeff Yurek: It seems like you have a lot of amendments or viewpoints. Was the Canadian Civil Liberties Association not available between March and August of this year to talk to the government at all?

Ms. Noa Mendelsohn Aviv: The Canadian Civil Liberties Association would have been delighted to participate in this process. The first we heard of it was about a week and a half ago.

Mr. Jeff Yurek: I'm just wondering, because you seemed to have so much to add, but you weren't consulted until November 9, two months after the bill was in the Legislature.

Ms. Noa Mendelsohn Aviv: I think it is unfortunate that we weren't able to participate earlier than this, and I can assure you, seeing as I was at a meeting on a different issue at 7:20 this morning, that the timing is not how we would have chosen.

Mr. Jeff Yurek: It's just a concern, because the Mental Health Act—there's a lot of updating that needs to occur, and we don't get this opportunity so often. It seems they've missed the boat on this one.

Ms. Noa Mendelsohn Aviv: I'll see if I can find a card, so next time it comes up, you're welcome to give me a call and I'll get involved earlier. Thank you.

Mr. Jeff Yurek: Great. Thanks.

The Acting Chair (Ms. Daiene Vernile): Our final questions for you are from our third party. MPP Gélinas.

M^{me} France Gélinas: My first question has to do with the constitutionality of what we have now. Do you think that what we have now, if we make no modifications, like you have suggested—if we don't take those into account, do you figure it will pass the constitutionality test or not?

Ms. Noa Mendelsohn Aviv: I think there are two answers that need to be given—to the question that you asked and to the question that you didn't ask but is implied in it. I believe that if a person like Mr. S., came before the court again, who was voluntary but certifiable, for example, or who had had the period of their detention cut up for various reasons so that they weren't technically under the auspices of the board and they had no accessible access to justice, yes, I believe that's exactly what the Court of Appeal was saying, that that's unconstitutional. A 12-month lag also seems to me very long. Other liberty interests, with respect to detention in the Charkaoui case before the Supreme Court of Canada—six months was considered to be too long without a review. Now, this is a residual liberty interest, so I don't know what they'd have to say in this circumstance.

I think the question that is also implied here is: When would it come back before the court? Whether it would be challenged—in the case of Mr. S.—or whether somebody else would have to sit locked up behind bars in an inappropriate place for another 19 years before they could find a lawyer who could take it forward, who could get it appealed, who could get it before a court—that's the really sad and frightening part of this, that it may take a very long time before a court gets its hands on it and says, "Come on, Ontario Legislature. You have the opportunity. Make a change that's going to be meaningful in the lives of people."

M^{me} France Gélinas: So the voluntary versus the involuntary and the time frame for sure have to be fixed—

Ms. Noa Mendelsohn Aviv: And the authorities of the board to address the full gamut of residual liberty interests, including treatments and assessments, absolutely.

M^{me} France Gélinas: Okay. You talked about wanting the perspective of a person with lived experience. I understand that other provinces have made the change, and you see this as an opportunity for us to do the same.

Ms. Noa Mendelsohn Aviv: That's right.

M^{me} France Gélinas: The nurse practitioners have also asked to be considered to be on the Consent and Capacity Board. Do you have any opinion on that?

Ms. Noa Mendelsohn Aviv: I don't have a position on that at this time.

M^{me} France Gélinas: They've also asked to be able to sign form 1s. Would you have an opinion on that?

Ms. Noa Mendelsohn Aviv: I don't have a position on that now.

M^{me} France Gélinas: I just wanted to make sure.

Then, under the community treatment orders, CTOs—I'm not exactly clear if this is something you want us to know or if this is something that you want us to change in the bill.

Ms. Noa Mendelsohn Aviv: What I said with respect to community treatment orders is that the CCB should have the authority to provide the less restrictive measure of a CTO and to supervise the issuance of a CTO. At the same time, the Consent and Capacity Board should also have the authority to order a less coercive means, such as a community treatment plan, without it being coercive on the individual—because we understand, based on the research that we've done on CTOs, that those are effective and less coercive.

The Acting Chair (Ms. Daiene Vernile): Thank you very much for appearing before this committee. I invite you to join the public gallery now, if you wish.

COALITION OF ONTARIO PSYCHIATRISTS

The Acting Chair (Ms. Daiene Vernile): I will call on our next presenter, the Coalition of Ontario Psychiatrists. Please come forward.

Good afternoon. Please begin by stating your name.

Dr. Thomas Hastings: My name is Dr. Thomas Hastings.

The Acting Chair (Ms. Daiene Vernile): Begin anytime.

Dr. Thomas Hastings: On behalf of the Coalition of Ontario Psychiatrists, I'd like to thank the committee for affording us the opportunity to present our views today. This presentation summarizes our written submission and is complemented by a letter that has been attached to that submission from a family with lived experience.

The coalition was formed in the 1990s and represents over 2,000 psychiatrists in Ontario. We consult with other stakeholders, including the Ontario Psychiatric Association and the Association of General Hospital Psychiatric Services.

We have grave concerns about replacing psychiatrists on hearings of the Consent and Capacity Board related to mental health issues. Only three provinces allow any physician; the rest require a psychiatrist to sit on their panels; and none allow nurse practitioners. The board's expert standing comes from the specific expertise of its psychiatrist, lawyer and community membership. The board has a duty to clarify the unique and complex issues before it on a daily basis. This requires nuanced psychiatric knowledge and expertise. It is also impossible to predict the complexity of issues faced at hearings to allow for the assignment of less expert professionals to less complex hearings.

As the vast majority of mental health case law comes from appeals by patients hospitalized for less than six months, a psychiatrist is needed for all such hearings, not just those after the six-month period. Replacing psychiatrists diminishes the board's expertise, risking unfavourable judicial review if their decision is appealed to court.

Furthermore, this change proposed was not required by *P.S. v. Ontario*, and appears to have been added to address a shortage of psychiatrists on the board. The board changes were made without meaningful engagement of psychiatrists to help inform the ministry of the potential impact of the bill on hospital-based mental health care. This flawed process risks flawed policy.

The coalition is open to future consultation and wants to assist the ministry in solving the problem without the negative consequences of the current proposal. Potential solutions include changing the time frame for board hearings from seven to 14 days for the majority of hearings; alternatively, facilitating treatment to reduce the number of hearings related to incapable patients requiring ongoing hospitalization due to treatment refusal.

We submit that Bill 122 be modified to ensure relevant physician expertise is present at all board hearings, and continues to require a psychiatrist for all mental health-related hearings, or remove any reference to board composition changes for future reconsideration after due consultation.

Our other concern is the missed opportunity for Bill 122 to address the issue of treatment delays. *P.S. v. Ontario*, the decision precipitating Bill 122, identified the expectation that involuntary admitted patients will receive treatment. I quote from paragraph 195: "A dominant theme of modern mental health care policy—minimizing hospitalization and maximizing rapid return to community living. The involuntary committal provisions of the" Mental Health Act "are tailored to deal with urgent situations where an individual requires immediate treatment to avoid harm to him or herself or harm to others. Certifications typically have a short life. The short periods ... form a statutory pattern that indicates an expectation that the risk of harm can ordinarily be resolved by treatment..."

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"In the case of a short-term committal, the immediate issue for the CCB is whether or not the patient is certifiable. If he ... is certifiable, treatment will be pro-

vided and the patient will generally be released within a relatively short" time frame.

In actual fact, under current law, treatment is often delayed for months. Interim treatment orders are inadequate for reasons that are outlined in our written submissions.

In 2010, after 18 months of public consultation, the all-party Ontario Select Committee on Mental Health and Addictions, led by current Liberal cabinet minister and MPP Kevin Flynn, with representation by three other Liberal cabinet ministers—Dr. Helena Jaczek, Liz Sandals and Jeff Leal—as well as current NDP MPP France Gélinas, presented their finding. This committee confirmed “the excessive and unnecessary suffering permitted under our current legislation” and expressed certainty that these harms could be avoided through legislative or policy change, ensuring that involuntary admission must also entail treatment and “that the right to autonomy must be balanced with the right to be well.”

We would suggest that an appropriate balance of rights is struck in the stated purposes of our current Health Care Consent Act. I quote from section 1:

“(b) to facilitate treatment ... for persons lacking the capacity to make decisions about such matters;

“(c) to enhance the autonomy of persons for whom treatment is proposed ... by,

“(i) allowing those who have been found to be incapable to apply to a tribunal for a review of the finding....”

Linking the need for treatment with involuntary admission and permitting treatment pending appeal is in fact legislated in multiple other provinces; it's not a new concept. The government correctly notes that the majority of people in psychiatric facilities for longer than six months have mood and psychotic disorders. These disorders are highly responsive to current Health Canada-approved medications. Incapable refusal of these medications contributes to the otherwise unnecessary detention of these individuals.

A 2002 10-year Ontario study of two psychiatric hospitals found the board overturned 1.5% of over 300 incapacity findings; this suggests that psychiatrists accurately assess capacity. Fifteen patients appealed the board's decisions around finding these patients incapable to the courts, and none were successful. This confirms the board's expertise in its current composition.

In the absence of court appeal, the average delay in initiating treatment was 25 days versus 253 days for appeals. Based on a 15-day length of stay, appeals blocked treatment of 129 patients. Direct hospitalization costs per patient appeal were \$90,000. Several variables make this a substantial underestimate of the actual system costs, including the increased cost per bed day since, an increasingly legalistic climate as evidenced by the rapidly growing number of Consent and Capacity Board hearings, and the recent increase in legal aid funding to support appeals independent of merit.

Indirect costs of treatment delay include longer hospitalizations, increased seclusion and restraint use, family

suffering and breakdown, loss of employment and housing for the individual, legal aid fees, backups of patients in emergency rooms and courts, and potential premature discharge of patients due to bed shortages with negative outcomes, including suicide and violence to others. Preventing treatment with Health Canada-approved medication pending appeal is based on the concern that despite the board's confirming the person's treatment and capacity, some people might receive treatment the courts later find they were legally capable of refusing.

A study of all Ontario psychiatric facilities from 1990 to 2005 reviewing outcomes for all patient appeals demonstrated that this was not the case: The court reversed a finding of incapacity confirmed by the board in only three cases. All three patients were eventually legally treated. Their successful appeal nearly delayed treatment by years, during which time they remained involuntarily detained, spending significant periods in solitary confinement as a result of being untreated. Only when treatment was provided was their freedom restored. The court appeals did not prevent a single person from eventually receiving medication, so no actual benefits offset the very real harms caused by current law.

While acknowledging Justice Molloy's comment in the *Gunn v. Kocerginski* case, we submit that the known harms of lengthy, involuntary hospitalization caused by incapable treatment refusal of Health Canada-approved medication result in far greater infringement of a person's right to self-determination, physical integrity, liberty and security than ensuring treatment does.

We call for an amendment allowing the immediate treatment of incapable patients with substitute consent following confirmation of treatment incapacity by the board.

In closing, I share Supreme Court of Canada Chief Justice Beverley McLachlin's perspective on the right to treatment:

“Our law governing hospitalization and consent continues to grapple with the challenges of appropriately balancing the autonomy and dignity of mentally ill persons with their right to treatment.... The challenge for the law is to keep pace with medical developments and ensure that the legal regime governing mentally ill persons is responsive to the current state of scientific knowledge. Our common challenge as doctors and lawyers is to work together in addressing the problems posed by mental illness. Laws cannot heal people, only services and treatment provided by medical professionals can achieve that ultimate goal. But the law can create a social and regulatory environment that assists medical professionals in delivering their services in a manner that is both ethical and respectful of the rights and needs of the mentally ill.”

We submit that the proposed amendments from the coalition meet that balance. Thank you.

The Acting Chair (Ms. Daiene Vernile): Thank you, Dr. Hastings. Our first questions for you are from our PC caucus, from MPP Thompson.

Ms. Lisa M. Thompson: I was taken by a comment that you shared during your deputation. You mentioned

that a flawed process leads to flawed policy. There's a bit of a trend here. The legislation was introduced in September for first reading, and I couldn't help but notice that your stakeholder consultation date didn't fall until October 16, 2015, so a significant amount of time after first reading actually occurred. How do you feel about that, and what could the government have done differently to get your perspective on Bill 122?

Dr. Thomas Hastings: As the decision came out in December 2014, *P.S. v. Ontario*, the coalition feels that it's unfortunate that our input wasn't sought earlier, given our representation of over 2,000 psychiatrists, including consultation with other organizations that are involved in delivery of care—most affected by this bill, specifically hospital-based psychiatric patients. We feel that we may have had some suggestions that could have, at an earlier point in time, shaped the direction of the bill, perhaps in a way that would avoid some of the harms we're concerned may occur if the bill is not amended.

Ms. Lisa M. Thompson: Okay. I appreciate that. And you feel you've been able to put forward those suggestions adequately with your recommendations in the deputation documentation that you shared today?

Dr. Thomas Hastings: Yes.

Ms. Lisa M. Thompson: Okay. Thank you. We'll be taking a look at that as well.

We heard earlier today a deputation with regard to the involvement of nurse practitioners and their interest in being able to sign a form 1. Can you go back and reiterate your organization's position on that?

Dr. Thomas Hastings: What I can say is that we are in support of nurse practitioners being able to complete form 1s. The reason for this relates to the purpose of a form 1, which is to allow for a psychiatric assessment to occur. We certainly respect that nurse practitioners are highly skilled and valued professionals, that they often provide significant amounts of mental health care, including in more remote geographical areas, and that their involvement in helping patients access mental health care is at times critical. This would be one way to help patients get care.

Ms. Lisa M. Thompson: Very good. I appreciate that. Thank you.

The Acting Chair (Ms. Daiene Vernile): Thank you. Our next question for you is from our NDP caucus. MPP Gélinas.

M^{me} France Gélinas: Thank you for coming. I wanted to ask your opinion about—I think it's in there—the voluntary, as in the person is staying in for a long period of time but not on form; if he goes out, he'll get formed, but staying in voluntarily. Others have said that those people should be allowed a review in front of the CCB like everybody else. Would you agree with that?

Dr. Thomas Hastings: The question you're posing is in fact highly complicated. I would suggest that it would be exceedingly rare for a patient to be a truly voluntary patient staying in hospital for six months.

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Sometimes you run into a more complicated position where a patient is voluntary, but if they try to leave,

they're certified. I don't really see that as being a patient who is truly voluntary.

I'm not sure I can say more to it than that, because it would really depend on the specifics of individual cases.

M^{me} France Gélinas: Okay. You have experience—I'm sure you've had patients in your practice who had—would they benefit from having a hearing with the CCB or no?

Dr. Thomas Hastings: Our sense is that the provisions that are currently allowed—to have reviews as the legislation suggests and in that time frame—are reasonable. I think you can have hearing fatigue in circumstances where unnecessary hearings may be called for.

The government really needs to strike the appropriate balance in terms of the frequency of hearings. I think, in that part of the legislation, we're comfortable.

M^{me} France Gélinas: At the beginning, you sort of scared me a bit when you were going through the example where the process would be so onerous that maybe hospitals that are cash-strapped may decide, basically, to put pressure on their psychiatrists so they do not go forward and hold people on form; that it would be easier to avoid all of this and let him go back into the community and let the police deal with it—because if they don't get treatment, that's usually who ends up dealing with it. Did I read that wrong, or were you telling us that?

Dr. Thomas Hastings: I'll speak from personal experience rather than from the coalition, to answer that.

I do provide mental health education across Ontario. It's my personal view that that happens frequently, that physicians are pressured to release patients for financial or reasons of backups in hospitals—

The Acting Chair (Ms. Daiene Vernile): Thank you very much. We go to our final questions for you now with MPP Rinaldi.

Mr. Lou Rinaldi: Thank you, Doctor, for a very detailed presentation today. It's much appreciated.

I have a question, and maybe you could be a little bit more specific and give us some more details. Can you explain to us the difference between complex and non-complex hearings, and why it is necessary for psychiatrists to sit on the board for complex hearings?

Dr. Thomas Hastings: That was really a reference to the government's language where they implied that hearings longer than six months were more complex and therefore required psychiatrists. It had to do with the implementation of the new duties being designated to the Consent and Capacity Board.

I actually think of it differently and think that the earlier hearings, ironically, may be more complex, because these are the patients who are still acutely unwell, where their histories are relatively new and uncertain.

It was really that the use of “complex” and “less complex” was in relation to the government's language. I feel all hearings are potentially complex. You simply cannot know in advance of the hearings what will be raised and what complexity of legal issues may be raised at hearings from the very get-go.

Mr. Lou Rinaldi: So there shouldn't be two classifications, then, as far as you're concerned?

Dr. Thomas Hastings: I don't think there should be two classifications. I think psychiatrists and psychiatric expertise, and the nuanced understanding of mental health issues, is required at every single hearing that's related to mental health issues.

Mr. Lou Rinaldi: Very good. Thank you very much.

Dr. Thomas Hastings: Thank you.

The Acting Chair (Ms. Daiene Vernile): Thank you, Dr. Hastings, for appearing before this committee today. I invite you now to join our viewing gallery, if you wish to.

NURSE PRACTITIONERS' ASSOCIATION OF ONTARIO

The Acting Chair (Ms. Daiene Vernile): I'd like to call now on our next presenter, with the Nurse Practitioners' Association of Ontario. Please come forward.

Please begin by stating your name and start anytime.

Ms. Theresa Agnew: I'm Theresa Agnew. I'm the executive director of the Nurse Practitioners' Association of Ontario.

We have provided a slide deck for you this afternoon, and so I will quickly go over those. Some are meant as a review, to provide a very quick context.

M^{me} France Gélinas: Clerk, do we have a copy of the slide deck?

Mr. Lou Rinaldi: Yes.

Ms. Ann Hoggarth: It's in the folder.

M^{me} France Gélinas: It's in the folder?

Ms. Theresa Agnew: Yes. Thank you.

I am the executive director of the Nurse Practitioners' Association of Ontario. I am also a primary health care nurse practitioner. I've been practising in the province of Ontario as a registered nurse and as a nurse practitioner for more than 30 years. I'm here today to speak about NPAO's position on Bill 122.

NPAO is the professional association representing more than 2,600 nurse practitioners in Ontario. We also are responsible for providing evidence-based professional development, member engagement and networking opportunities as well as advocacy services. We act as the de facto bargaining agent for nurse practitioners in Ontario.

As of November 1, 2015, there are more than 2,662 nurse practitioners in Ontario. They hold a number of specialty certificates. Approximately 2,000 hold a primary health care specialty certificate; 500 with an adult specialty certificate; 200 with pediatric; and we have six who are nurse practitioner anaesthetists but are not yet certified within the college for that.

Approximately 36% of nurse practitioners work in hospital and 59% work in the community, with 3.1% working in long-term care. But we have nurse practitioners working across the health care system and in correctional facilities, colleges and universities etc.

At this point in time, nurse practitioners are able to prescribe all medications with the exception of controlled drugs and substances. Nurse practitioners are authorized

to order all laboratory tests and interpret them. In Ontario, nurse practitioners are authorized to order most diagnostic imaging tests. In Ontario, nurse practitioners are also authorized to admit, treat and discharge hospital patients. Nurse practitioners are prepared at the graduate level and also must meet rigorous quality assurance stipulations set by the College of Nurses of Ontario.

NPAO supports the amendments currently proposed in Bill 122, An Act to amend the Mental Health Act and the Health Care Consent Act. NPAO supports utilizing nurse practitioners and physicians/family doctors on capacity and consent boards. This helps to ensure appropriate health human resource utilization, thereby freeing up psychiatrists for more complex cases and also, quite frankly, for direct care.

The proposed amendments recognize the significant role that nurse practitioners play in the health care system. They're currently providing safe, cost-effective and holistic patient care.

In addition, NPAO recommends that changes be made to Bill 122 to provide nurse practitioners with the authority to complete a certificate for involuntary admission; a certificate for a renewal or a certificate for continuation, as proposed; and issue and order community treatment orders. Such proposed additional changes would help to ensure the right care by the right provider who knows the client best, in the right setting, as close to home as possible, for the best value.

In the community, nurse practitioners act as the primary care provider for their clients. They know their clients best and yet they cannot refer a client for an involuntary psychiatric assessment. In other words, they cannot complete a form 1 under the Mental Health Act.

If a physician is not available—and many nurse practitioners work in remote, underserved areas—often the police or OPP are called and the assessment is done under a form 2. Unfortunately, with no disrespect meant to my colleagues in law enforcement, this can sometimes have the unintended consequence of escalating the threat of harm and/or traumatizing the client, leading to further complications.

Nurse practitioners are currently authorized to admit, treat and discharge hospital patients. Nurse practitioners in hospitals across Ontario now act as the most responsible practitioner for patients while in hospital. Yet, they cannot refer a client for an involuntary psychiatric assessment. To me, this does not make sense, and there needs to be an alignment of the legislation.

In long-term-care homes, nurse practitioners also act as the attending practitioner and/or the most responsible practitioner. Some of those patients sometimes need to be formed for their own safety and for the safety of other residents. As nurse practitioners cannot yet complete a form 1, they often have the resident transferred to an emergency department, where they may be assessed by someone who does not know them as well, does not know the context and does not know the potential for harm to self or harm to others that that resident may have.

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In conclusion, NPAO is proposing support of these amendments, as nurse practitioners currently work across all practice settings, certainly including mental health and addiction. We are a self-regulated profession, adhering to standards of practice, and we must also assess our own competence, knowledge and skill in various areas of expertise.

Nurse practitioners are increasingly providing primary care services in underserved rural and remote communities throughout Ontario, including 25 nurse practitioner-led clinics that provide care to over 65,000 patients across Ontario. Nurse practitioners often work with the most vulnerable populations, including orphaned patients, some of whom have very complex needs.

We believe that nurse practitioners know their patients best and enabling authority is safer for patients, reduces harm and promotes better outcomes. Thank you.

The Acting Chair (Ms. Daiene Vernile): Thank you very much, Ms. Agnew. We begin our questioning for you with our third party.

M^{me} France G  linas: Well, you were in the room when Dr. Hastings was talking about the need to have psychiatrists on the Consent and Capacity Board. What are the arguments for and against? He made a compelling case that you never know what's coming and you need the expertise of a psychiatrist to get it right, and the body of evidence so far shows that they got it right, most of the time. Do you see a risk if we now open it up to family physicians and nurse practitioners?

Ms. Theresa Agnew: I think that in an ideal world, the optimal situation would be to have psychiatrists involved on the Consent and Capacity Board. However, the population of Ontario, currently at about 13.6 million people and widely dispersed geographically, doesn't always permit that.

I'll speak from personal experience. I worked up in the Moose Factory zone and I provided care to the people of four small communities there: Peawanuck, Attawapiskat, Fort Albany and Moosonee. There, we had a psychiatrist who was able to fly in to that community once a month.

When I think about what Ontarians are faced with in terms of the need for services and what is currently available, I do think that it makes sense, from a health human resources perspective, that nurse practitioners and/or family physicians could be involved in consent and capacity.

M^{me} France G  linas: So would you see a nurse practitioner who has a qualification in psychiatry called to the Consent and Capacity Board?

Ms. Theresa Agnew: Yes, absolutely. I know that you heard earlier from my colleague Michelle Acorn. Michelle has done a great deal of work on assessment of clients with dementia. We have other nurse practitioners as well who have expertise and have done their doctoral work in caring for people with psychiatric disorders.

M^{me} France G  linas: There are people who feel that form 1 should not be used because they do not want to have a psychiatric assessment against their wish, and to

give nurse practitioners the opportunity to do this will just increase the number of people. What do you say to them?

Ms. Theresa Agnew: It would actually provide the most appropriate person, a person who likely knows that client, has a relationship with that client and has been involved in their care rather than, unfortunately, sometimes having to call the police or the OPP to have that involuntary assessment.

Again, I will draw from a personal experience without giving any identifying information. I had a client in my own practice who had paranoid schizophrenia, who had gone off her medication and was posing a risk to both herself and members of her community. We didn't have a physician available, and I had primarily seen this client and had assessed this client within the last seven days and a physician had not. I did end up having to call the police to bring that client into custody so that she could be assessed.

I went at my lunch hour to see how things were going. There were four ambulances, five police cars, a SWAT team, a police officer rappelling down her apartment building. She had apparently barricaded herself into her apartment but was additionally traumatized by the entire experience, whereas I could have gone myself and assisted her and taken her to hospital.

The Acting Chair (Ms. Daiene Vernile): Thank you very much. Our next set of questioning for you is from our Liberal caucus, MPP Kiwala.

Ms. Sophie Kiwala: Thank you very much for appearing here today. I very much appreciate your testimony. As somebody who had worked for seven years, previous to coming to this role, in a federal constituency office, I've been exposed to quite a number of individuals who have suffered from rather severe mental health issues, and I can totally relate to the last case that you just identified. We have a frequent flyer that comes to our office and regularly avails herself of emergency services, so I can see the benefits to having nurse practitioners provide the additional services when you are so familiar with the cases.

What I would like to focus on for this question is, the legislation is being amended to allow nurse practitioners to sit on the board to hear non-complex hearings. I'm wondering if you can elaborate a little bit more on why this is so important.

Ms. Theresa Agnew: I think that it's important now but it will become increasingly important with the so-called greying of our society, and with more individuals within our society facing issues of dementia and requiring capacity hearings, and also having family members who are concerned about their ability to make an informed consent. I see this as an issue which we have to be proactive about and we have to have a better way to respond across the province.

Ms. Sophie Kiwala: Again, I just want to say thank you for the work that you do in the communities. I can certainly say that I echo the same goodwill towards the nurse practitioners in Kingston and the Islands as well;

they do amazing work for us. So thank you for being here today.

Ms. Theresa Agnew: Thank you.

The Acting Chair (Ms. Daiene Vernile): Our final set of questions for you are from our PC caucus. MPP Thompson.

Ms. Lisa M. Thompson: Thanks again for being here. You've made it real in terms of how nurse practitioners play such an important role in the overall mix in front-line health care. Again, thank you for that.

It's interesting to me: Given the significant role that you play, I did not see where your organization was consulted with after the legislation was developed. I'm just wondering if you could share your thoughts as to why that happened.

Ms. Theresa Agnew: We were made aware of Bill 122 approximately a week and a half ago.

Ms. Lisa M. Thompson: Oh, for goodness' sake.

Ms. Theresa Agnew: We would have been more than pleased to provide a consultation prior to this and prior to the first reading of Bill 122, but we were not called upon to do so.

Our organization is fairly small and lean, so I don't think that this slipped between the cracks, unfortunately.

Ms. Lisa M. Thompson: Okay. I appreciate it very much. We certainly will take your recommendations and thoughts forward as we build our amendments.

Ms. Theresa Agnew: Thank you very much.

The Acting Chair (Ms. Daiene Vernile): Thank you very much, Ms. Agnew, for appearing before this committee today.

Committee members, before we adjourn for the day, I have couple of important announcements to share with you. Please take note of this: The amendments to Bill 122 need to be filed with the Clerk of the Committee by 12 noon on Tuesday, December 1, 2015—that's tomorrow; and that the committee is going to meet on Wednesday,

December 2, 2015, during its regular meeting time for clause-by-clause consideration of Bill 122.

Are there any questions or any feedback?

M^{me} France Gélinas: Can we ask Hansard to work as fast as their little fingers can to get us the Hansard of the—I tried taking notes as fast as I could; some of those people speak way faster than I'm able to write down. Even if they gave us a draft, it will be better than my notes.

The Acting Chair (Ms. Daiene Vernile): Can we speak to that? How soon do you think that will be filed?

The Clerk of the Committee (Ms. Sylwia Przewdziecki): There are channels by which the committee can request that the committee Hansard be prioritized. I believe this was already done for the public hearings on Bill 122, which means that after the Hansard for the House is complete, then the next committee they would work on would be ours. There was a priority put on last week's meeting too. The House is always the priority; it's available the next day. Once the House Hansard is put to bed, they can start working on this committee.

M^{me} France Gélinas: Okay, good enough. Do your best. God bless.

My next question is that when—actually, it was Cindy who was there for me last week. We asked for a copy of the list of the stakeholders and groups that were consulted before Bill 122 was tabled, and I don't seem to have received that.

Interjection.

M^{me} France Gélinas: It should be on my desk? Are you talking about this here?

The Acting Chair (Ms. Daiene Vernile): Yes.

M^{me} France Gélinas: So that's it? Okay.

The Acting Chair (Ms. Daiene Vernile): Committee members, thank you very much. It's been a pleasure sitting with you this afternoon. This committee stands adjourned.

The committee adjourned at 1531.

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Official Report of Debates (Hansard)

Wednesday 2 December 2015

Journal des débats (Hansard)

Mercredi 2 décembre 2015

Standing Committee on General Government

Mental Health Statute Law
Amendment Act, 2015

Comité permanent des affaires gouvernementales

Loi de 2015 modifiant des lois
relatives à la santé mentale

Chair: Grant Crack
Clerk: Sylwia Przedziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 2 December 2015

Mercredi 2 décembre 2015

*The committee met at 1600 in committee room 2.*MENTAL HEALTH STATUTE LAW
AMENDMENT ACT, 2015LOI DE 2015 MODIFIANT DES LOIS
RELATIVES À LA SANTÉ MENTALE

Consideration of the following bill:

Bill 122, An Act to amend the Mental Health Act and the Health Care Consent Act, 1996 / Projet de loi 122, Loi visant à modifier la Loi sur la santé mentale et la Loi de 1996 sur le consentement aux soins de santé.

The Chair (Mr. Grant Crack): Good afternoon, all. I'd like to call the meeting to order. This is the Standing Committee on General Government. I'll call the meeting to order. Welcome, everyone.

Today, we are here to discuss Bill 122, An Act to amend the Mental Health Act and the Health Care Consent Act, 1996, clause-by-clause. Again, welcome all members. I would ask at this time if there are any members who would like to ask any questions or make any comments prior to commencing clause-by-clause? Madame Gélinas.

M^{me} France Gélinas: I have said before and I will say it again: There is a really huge, pent-up demand out there to make modifications to the Mental Health Act. This very, very limited process that we've had to hear from people is sort of shameful. Mental health very seldom gets talked about in our Legislative Assembly. Finally we had an opportunity to put on the record issues with the Mental Health Act, but the whole thing was so little that it falls way short of people's expectations.

The Chair (Mr. Grant Crack): Thank you. Any further comments? There being none, we shall get into clause-by-clause consideration.

We shall start with section 1. There are no amendments. Any discussion on section 1? There being none, shall section 1 carry? Those in favour? I declare section 1 carried.

Section 2: Any questions or comments? There being none, I shall call for the vote. Shall section 2 carry? Those in favour? I declare section 2 carried.

Section 3: Any discussion? There being none, I shall call the vote. Shall section 3 carry? Section 3 is carried.

Mr. Bill Walker: Mr. Chair?

The Chair (Mr. Grant Crack): Yes, Mr. Walker?

Mr. Bill Walker: Are there amendments to this section?

The Chair (Mr. Grant Crack): There is a new section being proposed. I'm just about to get to that, Mr. Walker.

Mr. Bill Walker: Thank you.

The Chair (Mr. Grant Crack): So there is a new, proposed section by the official opposition. It's a new section, 3.1, and I would ask Mr. Walker to read it into the record.

Mr. Bill Walker: I move that the bill be amended by adding the following section:

"3.1 Section 15 of the act is amended by striking out 'physician' wherever it occurs and substituting 'physician or registered nurse in the extended class'."

The Chair (Mr. Grant Crack): Thank you very much, Mr. Walker. However, I will declare this motion out of order, this particular amendment, because it seeks to open a section of the act that is not open in this particular bill. It is therefore beyond the scope of the bill, so this is out of order.

We shall move to a proposed new section by the third party, the NDP, which is new section 3.1. Ms. Gélinas, would you like to read that into the record, please?

M^{me} France Gélinas: Yes, please. I move that the bill be amended by adding the following section:

"3.1 Subsections 15(1) and (1.1) of the act are amended by adding 'or registered nurse in the extended class' after 'physician' wherever it occurs."

This is to show that nurse practitioners and primary care physicians could both be useful in helping patients as described in this bill.

The Chair (Mr. Grant Crack): Thank you. Unfortunately, I will have to declare that this particular motion is out of order as well, as this amendment does seek to open a section of the act that is not open in this bill and it is therefore beyond the scope of the bill.

We shall move to a new section 3.1, as proposed by an amendment in a motion proposed by the official opposition. Mr. Walker.

Mr. Bill Walker: I move that the bill be amended by adding the following section:

"3. Section 15 of the act is amended by adding the following subsections:

"Application by registered nurse in the extended class

"(6) A registered nurse in the extended class may make an application under this section for a psychiatric assessment of a person who is the registered nurse's patient at a clinic at which no physicians are available to provide physician services.

“Same

“(7) If an application for a psychiatric assessment of a person is made by a registered nurse in the extended class, subsections (1) to (5) apply to the registered nurse in the extended class as though he or she were a physician.”

The Chair (Mr. Grant Crack): Thank you, Mr. Walker. Unfortunately, I will declare this particular motion out of order, as well, as this amendment does seek to open a section of the act that is not open in this bill, and is therefore beyond the scope of the bill.

We shall move to a new proposed amendment to section 3.1 by the third party, the NDP. Madame Gélinas, would you like to read that into the record, please?

M^{me} France Gélinas: Sure. I move that the bill be amended by adding the following section:

“3.1 Section 15 of the act is amended by adding the following subsections:

“Registered nurse in extended class

“(6) A registered nurse in the extended class may make application under this section for a psychiatric assessment of a person.

“Same

“(7) If an application for a psychiatric assessment of a person is made by a registered nurse in the extended class, subsections (1) to (5) apply to the registered nurse in the extended class.”

I would ask for unanimous consent to be allowed to open up section 15 of the Mental Health Act. What is basically happening in our province right now is that for over 100,000 Ontarians, their primary care provider is a nurse practitioner. They are the people who know the patients, who have more likely seen them in the last seven days and would be able assign a form 1. How do I go about asking for unanimous consent?

The Chair (Mr. Grant Crack): First of all, thank you very much. I will also, unfortunately, declare this one out of order, as it does open a portion—as you mention, section 15 of the act—which is not open in this particular proposed act and therefore is out of the scope of the act.

Madame Gélinas is asking committee for unanimous consent—that is within order—to reopen section 15 of the act and to consider this particular amendment. Do we have unanimous consent?

I heard a no. My “out of order” on the new proposed section 3.1 amendment stands.

We shall move to section 4. There are no amendments. Is there any discussion of section 4? There being none, I shall call the vote. Shall section 4 carry? I declare section 4 carried.

We shall move to section 5. There are new subsections 3(3) and (4) and new subsections 38(4) and (5) of the Mental Health Act. I believe the government—Mr. Fraser, would you be so kind as to read that into the record?

Mr. John Fraser: Chair, I move that section 5 of the bill be amended by adding the following subsections:

“(3) Section 38 of the act is amended by adding the following subsections:

“Requirements for certain board applications

“(4) The officer in charge shall promptly give the patient a copy of the application and shall also promptly notify a rights adviser when,

“(a) the minister, the deputy minister or the officer in charge applies under subsection 39(8) to transfer the patient to another psychiatric facility; or

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“(b) the officer in charge, or his or her delegate, applies under subsection 39(9) to vary or cancel an order made under section 41.1.

“Rights advice

“(5) The rights adviser shall promptly meet with the patient and explain to him or her the significance of the application.”

“(4) Subsection 38(8) the act is amended by striking out ‘Subsections (3) and (7)’ at the beginning and substituting ‘Subsections (3), (5) and (7)’.”

The Chair (Mr. Grant Crack): Thank you, Mr. Fraser. Is there any discussion on the proposed amendment?

Mr. Fraser, could you just reread the final—where it starts at (4) just so that we have it correct in the record?

Mr. John Fraser: Yes: “(4) Subsection 38(8) of the act is amended by striking out ‘Subsections (3) and (7)’ at the beginning and substituting ‘Subsections (3), (5) and (7)’.”

The Chair (Mr. Grant Crack): Thank you very much. Is there any further discussion on the proposed amendment? Ms. Gélinas.

M^{me} France Gélinas: I would say that it is very important to ensure access to rights advisers, but I am still concerned about granting authority to the minister and the deputy minister to bring an application to transfer patients.

I would quote partly from the Mental Health Legal Committee when they did a deputation in front of our committee. What they said was, “The proposed amendments expand the list of who may bring an application to transfer a patient to another psychiatric facility to include the minister and deputy minister. In the previous transfer provision, only the involuntary patient, a person on his or her behalf, or the officer in charge of the psychiatric facility where the person was detained could apply to the CCB to determine whether the patient should be transferred.

“The timing for when the minister, deputy minister and officer can bring an application is not explicitly provided for....” So we have no idea when those could happen.

The Mental Health Legal Committee also went on to say “that it is not clear what interest the minister or the deputy minister has in bringing a transfer application. The grounds upon which the minister may bring such an application should be explicitly provided for and reflect the interests of the patient.”

None of this is present right now, and the government has not provided any reasoning as to why those new provisions are necessary for the minister or the deputy

minister. The minister and the deputy minister will never be part of the circle of care. They will never be part of the ones who know the patient and know the best interests of the patient, so why should they have, in law, the right to move the patient about? There's some explanation that needs to be given before something like this happens, and I would like to hear this explanation.

The Chair (Mr. Grant Crack): Thank you, Ms. Gélinas. Any further discussion? There being none, we have before us a proposed amendment, government motion number 4. If there is no further discussion, I shall call a vote. Those in favour of government motion number 4? I declare government motion 4 carried.

We shall now deal with the section in its entirety. There was one amendment that was carried. Is there any further discussion on section 5 in its entirety? There being none, I shall call a vote. Shall section 5 carry? Those in favour? I declare section 5 carried, as amended.

We shall move to section 6. There is an NDP motion, number 5, which amends section 6, subsection 39(7) of the Mental Health Act. Ms. Gélinas?

M^{me} France Gélinas: I move that subsection 38(7) of the Mental Health Act, as set out in section 6 of the bill, be amended by striking out "12 months" and substituting "three months".

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Ms. Gélinas.

M^{me} France Gélinas: Basically, we are talking about fundamental liberties in this part of the bill. The Canadian Civil Liberties Association has implored this committee to ensure that rights are available to individuals at their regular review before the CCB; that is, every three months. The CCLA said that if this committee chooses to delay such access to justice for the individual, an application for one remedy should not create a 12-month bar for applying for a different remedy. The bill requires a correction on this point.

Noa Mendelsohn Aviv told the committee on Monday that "a 12-month lag also seems to me very long.... It's an unacceptable restriction on access to justice." Ms. Mendelsohn Aviv went on to recommend that the standing committee allow individuals "to make their case every three months on their regular review."

The Mental Health Legal Committee also told us that the proposed amendments in Bill 122 limit the frequency of applications to once every 12 months: "From the perspective of a vulnerable person, restricting such applications to once a year is not reasonable." A year is a very long time in a person's life, especially if you are detained in a hospital.

Bill 122 creates a distinction between a meaningful CCB hearing that will take place every 12 months and potentially meaningless ones at the interim opportunity to apply to the board. It also increases the prospect of long-term patients having to apply to the court by way of habeas corpus to enforce 41.1(2) orders in the absence of meaningful monitoring of its own order by the CCB.

These problems could have been avoided by consulting with the CCLA and the MHLC prior to the

introduction of this bill. But they were first consulted on this bill on November 9, despite both being interveners in the case of P.S., which brought this request from the court.

The government has been rather disrespectful to the expert mental health legal community. As a result, this bill, the way it is written now, risks still being unconstitutional. I want to ask the government members of the committee: How can you defend having done no consultations with the actual intervener in the P.S. case prior to introducing this bill? Think about it: 12 months is a long time. Some of the applications that they make may vary greatly. They may ask for an application for a variance as to their level of care. They may ask for a variance that has nothing to do with level of care, that has to do with privileges, or they may ask for a variance that has to do with the medications. But once you ask for one variance, you are barred from ever asking for another one for 12 months.

People's lives change in a 12-month period. To have a meaningful review every three months—three months is still a long time, if you ask me, but at least it's more meaningful than once a year. I could live with not asking for the same variance; the same variance could go for 12 months. But if there's a different one, it should be every three months, not 12. Twelve months is too long.

The Chair (Mr. Grant Crack): Thank you, Ms. Gélinas. Further discussion? Mr. Fraser.

Mr. John Fraser: I'll just very quickly respond to that. In the P.S. case, the court gave us a very specific direction in terms of ensuring the rights of long-term, involuntary patients. I think that, under the CCB, patients are granted hearings not just based on a 12-month cycle, but also based on the fact that there is a material change in their circumstance. So I think there's provision there for people who have changes in their circumstances to get an additional hearing by the CCB.

I think patients are protected. I share the member opposite's concern, but I think it's addressed with the way the legislation is written in the Consent and Capacity Board right now.

The Chair (Mr. Grant Crack): Further discussion? Ms. Gélinas.

M^{me} France Gélinas: Could we have a clarification from the legal expert here? The way the bill is written right now, can they ask for the same variance within three months or is it 12?

Mr. Eric Chamney: The way the bill is written right now, they can only ask for these orders every 12 months. So these specific orders are every 12 months.

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The Chair (Mr. Grant Crack): Thank you, Mr. Chamney. Any further discussion? Ms. Gélinas.

M^{me} France Gélinas: The argument that Mr. Fraser just made is not based in the reality of the bill. If we don't change the bill, if the bill continues to say "12 months," they will not be allowed to ask for a variance for a 12-month period. It is not within the CCB to change the rules once we put it in law. Once it is in the bill and

the bill says 12 months, then the variance cannot be brought forward again for 12 months.

Mr. John Fraser: Okay, that's—

The Chair (Mr. Grant Crack): Mr. Chamney would just like to clarify, if we have the committee's indulgence.

Mr. Eric Chamney: I'm sorry. I was too quick in my response. In the subsection itself, you cannot make an application under subsection (6) "within the previous 12 months, unless the board is satisfied that there has been a material change in circumstances."

So I apologize. The characterization was correct in that generally, the rule is "not within 12 months," but there is an exception if the board considers that there has been a material change in circumstances.

The Chair (Mr. Grant Crack): Thank you, Mr. Chamney. Any further discussion? Ms. Gélinas.

M^{me} France Gélinas: This is setting the bar pretty high. Have you ever sat in one of those hearings? Have you ever tried to prove that there has been a material change? It doesn't matter if you're asking for something different. You may be asking for granting of permission, but you may be asking for a change in your medication. It doesn't matter. Once the 12 months start ticking, if you want to ask for something else, you will be barred from doing this for 12 months unless there is a material change. There may not have been a material change, or you may be not be able to prove you meet the bar for a material change, but you may want a variance on something different. The way we have the bill written up now, those people won't be allowed to do that.

The Chair (Mr. Grant Crack): Mr. Fraser.

Mr. John Fraser: I think the exception provisions in our bill do protect people. It's a balance, and I think it strikes that balance. I understand what you're saying. I think those protections are in there, and I think it's the appropriate way to address those.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: Well, if you had taken the time to talk to the Canadian Civil Liberties Association and the Canadian Mental Health Legal Committee, and listened to their experiences dealing with the CCB and their experiences with this particular man who brought us to this table, you would see that this is not the way it will play out. It will play out that once you've asked for one variance, you are barred from asking for another one for 12 months. Meeting the criteria for substantive changes is a bar that none of them will be able to reach.

Mr. John Fraser: "Material change" is the wording that's in there. It's different from "substantive." I respectfully don't agree.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call for the vote on NDP motion 5.

If I could, as Chair, help the Clerk's table: When I call "Does the section carry?", or "Does the motion carry?", could we just raise some hands, so that I can then call for

those opposed as well, just to eliminate some confusion? It's one of my preferences as Chair.

So we do have NDP motion—Madame Gélinas?

M^{me} France Gélinas: I'll make it simple. I'll ask for a recorded vote.

The Chair (Mr. Grant Crack): That does make it simple. There has been a request for a recorded vote on NDP motion 5. I shall call the vote.

Ayes

Gélinas.

Nays

Colle, Dong, Fraser, Kiwala, McMahon.

The Chair (Mr. Grant Crack): I declare NDP motion 5 defeated.

We shall move to NDP motion 6, which is an amendment to section 6, subsection 39(8) of the Mental Health Act. Ms. Gélinas.

M^{me} France Gélinas: I move that subsection 39(8) of the Mental Health Act, as set out in section 6 of the bill, be amended by striking out "subsection 41.1(3)" and substituting "subsection 41.1(2)".

The Chair (Mr. Grant Crack): Thank you, Ms. Gélinas. Any further discussion on NDP motion 6?

M^{me} France Gélinas: Sure. It is clear to me and to the Mental Health Legal Committee that this must have been a drafting error on the part of the government. Otherwise, it would appear that the minister, deputy minister or officer in charge could apply to the CCB for an order to transfer the patient to another psychiatric facility over the objection of the patient, contrary to proposed paragraph 1 of subsection 41.1(2).

The government's own motion number 7 recognizes that the Mental Health Legal Committee was correct: The government drafted the bill incorrectly. Again, these problems could have been avoided by consulting with the experts at the Mental Health Legal Committee prior to introducing this bill, but they were consulted first on November 9, despite being an intervener in the P.S. case.

I ask the government to support this amendment so that we can move on to amendment number 8.

The Chair (Mr. Grant Crack): Thank you, Ms. Gélinas. Any further discussion? There being none, I shall call for the vote on NDP motion number 6. Those in favour? Those opposed? There being none, I declare NDP motion number 6 carried.

We shall move to government motion number 7.

Mr. John Fraser: Withdrawn.

The Chair (Mr. Grant Crack): There has been a withdrawal on the part of the proposer, which was the government. Government motion number 7 is withdrawn.

We shall move to government motion number 8, which is an amendment to section 6, subsection 39(14) of the Mental Health Act. Mr. Fraser.

Mr. John Fraser: I move that subsection 39(14) of the Mental Health Act, as set out in section 6 of the bill, be struck out and the following substituted:

“Composition and quorum of panels

“(14) The following rules apply with respect to the composition and quorum of panels of the board that hear applications under this section:

“1. A three-member panel shall consist of the following:

“i. For the hearing of a patient detained under a certificate of continuation, a psychiatrist, a lawyer and a third person who is not a psychiatrist or a lawyer.

“ii. For any other hearing,

“A. a psychiatrist, a physician, a registered nurse in the extended class or a prescribed person,

“B. a lawyer, and

“C. a third person who is not a psychiatrist, a physician, a registered nurse in the extended class, a lawyer or a prescribed person.

“2. Despite clause 73(3)(b) of the Health Care Consent Act, 1996, all three members of a three-member panel are required to constitute a quorum.

“3. A five-member panel shall consist of the following:

“i. For the hearing of a patient detained under a certificate of continuation, one or two psychiatrists, one or two lawyers, and one to three other persons who are not psychiatrists or lawyers.

“ii. For any other hearing,

“A. one or two persons who are psychiatrists, physicians, registered nurses in the extended class or prescribed persons,

“B. one or two lawyers, and

“C. one to three other persons who are not psychiatrists, physicians, registered nurses in the extended class, lawyers or prescribed persons.

“4. Despite clause 73(3)(b) of the Health Care Consent Act, 1996, the following members are required to constitute a quorum of a five-member panel:

“i. For the hearing of a patient detained under a certificate of continuation, at least one psychiatrist, one lawyer and one person who is not a psychiatrist or a lawyer.

“ii. For any other hearing, at least one person who is a psychiatrist, a physician, a registered nurse in the extended class or a prescribed person, one lawyer and one person who is not a psychiatrist, a physician, a registered nurse in the extended class, a lawyer or a prescribed person.”

The Chair (Mr. Grant Crack): Thank you, Mr. Fraser. Further discussion on government motion 8? Madame Gélinas.

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M^{me} France Gélinas: Can somebody explain to me why we are doing this? Because it seems to me that this amendment adds the authority for the government to add prescribed persons to the CCB. If the government wants this so that we can add people on the CCB who have mental health system experience as patients, then I'd like

to remind them that the mental health legal community has shown the committee that both Nova Scotia and Newfoundland and Labrador have a legislated requirement for consumers of mental health services to be present on their equivalent panels. It is not left to regulation. So who are those prescribed persons, and why are we doing this?

The Chair (Mr. Grant Crack): Thank you—

Mr. John Fraser: You're correct. It does create—oh, sorry.

The Chair (Mr. Grant Crack): Mr. Fraser.

Mr. John Fraser: I'll get it, Mr. Chair.

It does provide the government with the ability and regulatory authority to add the prescribed person, which I think will add a process which is equally as effective a process, and give some flexibility to looking at the various professions that may be used at the Consent and Capacity Board.

The Chair (Mr. Grant Crack): Further discussion? Ms. Gélinas.

M^{me} France Gélinas: So we're not really looking at having people with mental health experience but more at adding people like psychologists to the board?

Mr. John Fraser: “A prescribed person” is, I think, a fairly—

Mr. Mike Colle: Broad.

Mr. John Fraser: Yes, thanks. That's the word I'm looking for. It's a broad term. It's meant to be inclusionary, obviously, in a very specific way. I think it's an appropriate way to go forward in terms of looking at the people who have the capacities to be on that board, because it's not only an expertise that is required in mental health, and experiences in mental health, but it's also experiences from the point of view of an administrative tribunal. Those skills are something that's there as well.

I think it's an appropriate vehicle to ensure that the Consent and Capacity Board will have the kinds of members who have the scope and the ability to be on the committee—and I don't want to judge that.

The Chair (Mr. Grant Crack): Further discussion? Ms. Gélinas.

M^{me} France Gélinas: So it is not so that we add patients with lived experience. That's not what a prescribed person is going to be?

Mr. John Fraser: That is not specifically mentioned in this amendment, no.

The Chair (Mr. Grant Crack): Further discussion? Mr. Walker.

Mr. Bill Walker: Just a point of clarification: Mr. Fraser, this would potentially be a case where an RN with experience in mental health could be a panel member, thereby freeing up a psychiatrist to be able to do other panels, those types of things. Is that really the intent?

Mr. John Fraser: It's pretty broad. That could be one of those prescribed persons. It is a very broad term.

I think, if I look at the intent of that, you're looking for the people with the required expertise to execute a fair hearing, and that requires expertise and skill in the subject matter and also requires people to have some

expertise and skill in the functioning of a tribunal and administrative justice.

The Chair (Mr. Grant Crack): Mr. Walker?

Mr. Bill Walker: I believe the Ontario psychiatrists are a little concerned that allowing nurses and/or others to sit may lower the level of medical expertise. I trust that what you're suggesting is that people with experience are going to be on there, and you have at least one psychiatrist and a lawyer, so you're still going to have some balance in there—again, freeing up other people to be able to go on to other panels.

Mr. John Fraser: Just frankly, I'll back up. I'm doing a bit of work on scope, so I can look into a certain number of professions like nurse practitioners and a clinically trained nurse, and know that they have the kind of expertise that will be required in certain circumstances. I also know they have a professional responsibility, when there's a patient or a circumstance in front of them that they feel is outside of their ability or their scope, that they declare that.

I think it's an appropriate use of those resources. I think there is a potential, obviously, for it to help to make sure that those cases that are very complicated and complex are done in a timely fashion, I would think, and that's the intent of that.

I can understand the concern from a specific professional community. I think that the professions that we've talked about here—and any profession, in fact—have a duty when they have a circumstance, or especially a patient, in front of them: that they know that they have to have the scope to be able to do that and, if they don't, that they declare that. In practice, I've seen that with nurses, nurse practitioners and other professions who simply say, "I can't do this."

I know that there are the skills inside that community to assist the board, so that's why I'm personally comfortable with that.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call for the vote on government motion number 8.

Those in favour? Those opposed? I declare government motion number 8 carried.

We shall move to NDP motion number 9, which is an amendment to subsection 6, adding a new paragraph 5, subsection 39(14) of the Mental Health Act: Madame Gélinas.

M^{me} France Gélinas: You said "5," but it's "6."

The Chair (Mr. Grant Crack): Section 6, but it's paragraph 5.

M^{me} France Gélinas: Okay. I move that subsection 39(14) of the Mental Health Act, as set out in section 6 of the bill, be amended by adding the following paragraph:

"5. Any member who sits on any panel is required to have expertise in mental health issues."

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: We have just seen, with government amendment number 8, the addition of unknown people to those boards. There is already a list of

people who can sit on the Consent and Capacity Board. It is crucial that members of the Consent and Capacity Board have expertise in mental health issues, including front-line community workers, patient advocates and non-governmental associations and organizations.

The idea is really that you just passed an amendment that opens up the Consent and Capacity Board to, frankly, the unknown. The least we could do is to make sure that the people who go on there are there for the right reason and they have, basically, a mental health background: they know mental health issues; they come from the community; they are patient advocates; they are non-governmental.

I would say that this would bring some reassurance that a politician is not going to be one of those prescribed persons assigned on that board. Bring reassurance to this; it's pretty scary.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Ms. McMahon.

Ms. Eleanor McMahon: While I hear the member opposite's comments and I respect the point of view that she brings to this, I can't help but add that when it comes to motion number 8, which just passed—just for clarification, Mr. Chair—the regulatory power that amendment number 8 allows us to have now, having just passed, was at the request of the RNAO and the psychologists. Both those professions, it seems to me, have resident capacity in mental health and the care of patients who are mentally ill. Based on those requests, we now have the power to allow that to happen.

Respectfully, I might disagree with that. I think that the amendment that we're currently discussing is redundant because the Consent and Capacity Board already ensures through its recruitment process that members who sit on it have expertise in mental health issues. While I understand the member opposite raising this as a concern, I respectfully disagree that it is one because I think the power is there already and I think that we should not be concerned, with all due respect, about this.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: If they wanted to add psychologists and nurses, they should have said that they wanted to add psychologists and nurses, and I would have voted in favour of a recommendation like this.

1640

But that's not what they did; they put "prescribed person." A prescribed person could be somebody who wants to be educated on the Consent and Capacity Board; it could be people who have very good reasons for wanting to be there, but who do not have the background in mental health and who will not be basically taking part in the process that is there to strike this fine balance between the need for care and the need to respect the rights.

If they wanted to add psychologists and nurses, they should have said so. That's not what they did. They have opened the door wide open. While the Liberal government is in power right now and feels that this is what

they want to do, this bill will be there after all of us are retired and gone from this place—this bill will still be there. How this bill will be used is that it will be used with the letter of the law. The letter of the law right now does not say “psychologists and nurses”; it says “prescribed person.”

Have I seen pieces of legislation used against patient care before? Yes. We have all seen it. Would you like me to start to rhyme off the number of pieces of legislation that have been used against patients rather than for them?

I realize that the people on the other side want to do it right. But we are legislators, and we have to make sure that the words that are on the piece of paper are the words that will bring forward the spirit of what we wanted to do. If you wanted psychologists and nurses, this is what you should have put in; you did not.

To add a little bit of certainty that those prescribed persons will be knowledgeable about mental health issues is a very little step, but 30 years from now, when you look back on that piece of legislation, you will be very happy that you did it.

The Chair (Mr. Grant Crack): Further discussion? Mr. Yurek.

Mr. Jeff Yurek: Yes, I wished the last amendment would have had “prescribed person with mental health expertise.” I think it would have tidied that up.

My concern with this motion is I honestly don't think that lawyers need to be experts in mental health. Sitting on the panel, I think they need to be more regarded to the civil liberties of the person in question and ensure that's taken, in consent—I agree with France's motion with regard to the prescribed persons having mental health experience. I think that's a concern.

We heard from the psychiatrists who were here that they were concerned that the mental health expertise on the board could disappear. I'm fully supportive of nurses or psychologists being on the board. However, it's kind of loose, the way it's left in the last amendment. Unfortunately, with this amendment, I still honestly don't think the lawyers on the panel need to have that expertise.

The Chair (Mr. Grant Crack): Madame Gélinas?

M^{me} France Gélinas: You guys all realize that when you go into one of those hearings, the patient comes with a whole bunch of lawyers who are there to protect their civil liberty, and that's fine; that's why we have it.

On the other side, on the Consent and Capacity Board, you often have the psychiatrist with a whole bunch of other lawyers. The amount of knowledge of mental health during those hearings is sometimes really, really tiny, to the point of non-existent. You have the lonely voice of a psychiatrist, trying to say, “This person needs care,” and then you have a well-equipped team of lawyers that are there on the other side.

The health care system needs to find the right balance. But to make sure that the Consent and Capacity Board continues to have expertise and knowledge on mental health issues, go and sit in one of those. Go and ask to see how it's done in real life. It is a whole bunch of lawyers arguing with one another, and the care of the patient takes second seat, if not third seat.

To make sure that the people who are there on the Consent and Capacity Board—have no fear: The patient does not go there alone. They are with a team of lawyers who are there to make sure that their rights are respected.

To make sure that the care possibilities are taken into account, you need people who know mental health. What we have right now is we have a huge opportunity for that knowledge of mental health to be completely eroded, where you will have lawyers arguing with lawyers, costing the system a ton of money, because none of them work cheap. At the end of the day, the care of the patient takes the second seat. This is not a big ask.

The Chair (Mr. Grant Crack): Thank you, Madame Gélinas. Further discussion? Mr. Fraser.

Mr. John Fraser: In all due respect, I agree with Mr. Yurek. I don't think we need this, as the board already ensures that we have those people on the boards who have expertise in mental health, but also those people who understand the law, and a public member as well.

I don't think there's any need to legislate this requirement. We do have the process for people who are appointed to the board. It's very clear in terms of our public appointments process right here. Expertise in something is a pretty broad term, right? I'm not sure that even the intent of what you are doing is actually what you would do—not that I would agree to change the motion, because I think that we already have what we need inside the Consent and Capacity Board and the legislation as we're proposing it to go forward in a way that's going to be fair and deal with that fairly well-defined number of involuntary patients who come before the board.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call for the vote on NDP motion number 9. Those in favour? Those opposed? I declare NDP motion number 9 defeated.

We shall move to NDP motion number 10, which is a new paragraph 6 of section 39(14) of the Mental Health Act. Madame Gélinas.

M^{me} France Gélinas: I move that subsection 39(14) of the Mental Health Act, as set out in section 6 of the bill, be amended by adding the following paragraph:

“6. Panels shall, if possible, include one or more members who have been consumers of mental health services, and efforts must be made to recruit such members.”

The Chair (Mr. Grant Crack): Thank you. Discussion? Madame Gélinas.

M^{me} France Gélinas: Well, through the deputations that we've heard, it has become clear that it is vital that the perspective of patients be respected on the Consent and Capacity Board. Nova Scotia's Involuntary Psychiatric Treatment Act stipulates that members of the review board should be appointed from a group of candidates that has expressed interest in mental health issues and preferably are or have been consumers of mental health services.

In Newfoundland and Labrador, the Mental Health Care and Treatment Act specifies that preference be

given to persons who are or have been consumers of mental health services, when choosing members of their board.

I would recommend that Ontario also adopt this language and I would say many stakeholders in the mental health community, whether it be the Mental Health Legal Committee, the Canadian Civil Liberties Association or the Advocacy Centre for the Elderly, also support this. People with lived experience have a lot to contribute. They have been there. They have seen both sides, and their knowledge and expertise is worth listening to.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? There being none, I shall call for the vote on NDP motion number 10. Those in favour? Those opposed? I declare NDP motion number 10 defeated.

We shall deal with section 6 in its entirety. There were two amendments, so section 6 is amended. Any final discussion on section 6? There being none, I shall call for the vote. Shall section 6, as amended, carry? Those in favour? Hands would be nice, please. Those opposed? I declare section 6, as amended, carried.

1650

We shall move to section 7. Any discussion? I shall call the vote. Shall section 7 carry? Those in favour? Any opposed? I declare section 7 carried.

Section 8: Any discussion? I shall call for the vote. Shall section 8 carry? Those in favour? Those opposed? I declare section 8 carried.

Section 9: Any discussion? There being none, I shall call the vote. Shall section 9 carry? Those in favour? Those opposed? I declare section 9 carried.

We shall move to section 10. There is one amendment—or a number of amendments. NDP motion 11; it's an amendment to section 10, paragraph 1, subsection 41.1 of the Mental Health Act. Madame Gélinas.

M^{me} France Gélinas: I move that paragraph 1 of subsection 41.1(2) of the Mental Health Act, as set out in section 10 of the bill, be amended by striking out “subject to subsections (10), (11) and (12)” at the end.

The Chair (Mr. Grant Crack): Further discussion? Mr. Fraser.

Mr. John Fraser: The following motion has the same effect with the language, and our motion 12 coming forward is stronger, so we won't be supporting this motion. But I think that the intent of—that's all I have to say.

The Chair (Mr. Grant Crack): Any further discussion? Madame Gélinas.

M^{me} France Gélinas: When we look at the proposed language in Bill 122, the Advocacy Centre for the Elderly said, “It is unclear from this wording whether the intent is that a patient can be transferred over their objections if the CCB finds that a transfer is in the patient's best interests or that the transfer is likely to improve the patient's condition or well-being.” This “could lead to confusion and unintended consequences,” and those consequences are always borne by the patients themselves. “The present transfer power within the MHA does not grant the CCB the power to transfer a patient over his or

her objection. There is no indication that the government intends to make a drastic change to the MHA which would permit a patient to be transferred in such a manner.”

The Advocacy Centre for the Elderly submitted that subsections 11 and 12 are also not “germane to the consideration of whether or not the patient is transferred.” They recommend that the term “subject to subsections (10), (11) and (12)” be removed.

You have to realize that all of this could have been clarified way sooner had the government taken the time to talk to the Advocacy Centre for the Elderly before November 2, nearly a month and a half after the bill was tabled, and 11 months after the court had mandated the government to change the law. All of this could have been avoided and, basically, we would have had a much stronger bill.

The problem, when a bill is so—what I can say?—full of mistakes, is that you lose confidence in the whole thing. Right now, I can see that there's motion 12 that talks about the exact same thing that the government is trying to correct: the sloppy work that they put into the House for first and second reading. There's something to be learned here. Talk to people before you put those bills forward. Let's all learn from that so that we get better pieces of legislation coming forward.

You all know that the Mental Health Act is—how can I say?—hated by many, many families and people in Ontario. When you finally bring forward a bill that will open up the Mental Health Act, you have to dot the i's and cross the t's. When you do things like this, it creates a lot of turmoil for people who are already struggling enough without us making it worse.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Mr. Colle.

Mr. Mike Colle: I've been sitting through committees for 20 years—governments of all stripes. There are never perfect pieces of legislation in first or second reading. There are always amendments, technical changes. This is why we're here: to make those adjustments. I just want to put that on the record.

The Chair (Mr. Grant Crack): Further discussion? There being none, then I shall call for the vote on NDP motion number 11. Those in favour? Those opposed? I declare NDP motion number defeated.

We shall move to government motion number 12, which is an amendment to section 10, paragraph 1, subsection 41.1 of the Mental Health Act. Mr. Fraser.

Mr. John Fraser: I move that paragraph 1 of subsection 41.1(2) of the Mental Health Act, as set out in section 10 of the bill, be struck out and the following substituted:

“Transfer the patient to another psychiatric facility, subject to subsections (10), (11) and (12), but only if the patient does not object.”

Thank you.

The Chair (Mr. Grant Crack): You're quite welcome, Mr. Fraser. Could you just reread where it says “1.” I think you omitted “1. Transfer the patient....” So just reread that—

Mr. John Fraser: “1. Transfer the patient to another psychiatric facility, subject to subsections (10), (11) and (12), but only if the patient does not object.”

The Chair (Mr. Grant Crack): Thank you very much.

Interjection.

The Chair (Mr. Grant Crack): That is fine. Further discussion on government motion number 12? There being none, I shall call the vote. Those in favour of government motion number 12? Any opposed? I declare government motion number 12 carried.

We shall move to PC motion number 13, which is an amendment to section 10, paragraph 2, subsection 41.1 of the Mental Health Act: Mr. Yurek.

Mr. Jeff Yurek: Mr. Chair, we’re going to withdraw this amendment because we think amendment 14 is the same idea but with more specific language that we will support.

The Chair (Mr. Grant Crack): Thank you, Mr. Yurek. PC motion 13 is withdrawn.

We shall move to NDP motion number 14, which is an amendment to section 10, paragraph 2, subsection 41.1(2) of the Mental Health Act: Madame Gélinas.

M^{me} France Gélinas: I move that paragraph 2 of subsection 41.1(2) of the Mental Health Act, as set out in section 10 of the bill, be amended by striking out—bracket—“a physician” and substituting—bracket—“the attending physician or registered nurse in the extended class”.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Madame Gélinas.

M^{me} France Gélinas: Sure. Basically, without this change, the authority lacks the safeguards present in the current mental health provisions. Specifically, a physician recommending a leave of absence or a community treatment order under the Mental Health Act must be familiar with the patient’s current status. It’s as simple as that.

We have to make sure that it is a physician or a nurse practitioner, better known as a registered nurse in the extended class, but you have to be the right physician or nurse practitioner. You have to be the one who is familiar with the patient’s current status.

The Chair (Mr. Grant Crack): Thank you, Madame Gélinas. Just for a point of clarification for members of the committee, when Ms. Gélinas was reading into the record the motion—

M^{me} France Gélinas: I said “bracket” when they were—

The Chair (Mr. Grant Crack): They are quotation marks. Would you like to clarify your record to replace the—

M^{me} France Gélinas: Put the quotation marks back? Sure. I move that paragraph 2 of subsection 41.1(2) of the Mental Health Act, as set out in section 10 of the bill, be amended by striking out “a physician” and substituting “the attending physician or registered nurse in the extended class”.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion on the motion? Mr. Colle.

Mr. Mike Colle: Mr. Chair, we believe this motion is out of order and not related to P.S. v. Ontario. This motion would permit a nurse practitioner to recommend a leave of absence for a patient at a Consent and Capacity Board hearing.

1700

This amendment goes beyond what is required by the P.S. v. Ontario decision. The act allows the attending physician to put a patient on leave of absence.

The Chair (Mr. Grant Crack): Thank you very much. I will rule, with respect to your comments, that it is in order, and we will continue to proceed.

Mr. Walker.

Mr. Bill Walker: I just want to put on the record that this is a recommendation of the Ontario Hospital Association, as well. They feel that it is an appropriate need to be in the motion. I just want to make sure we put that on the record.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: There are current provisions right now in the Mental Health Act that do just that, that make sure that the people—you always want to strike a balance, and this is the dance we’ve been trying to do with this bill. The balance is always the same: You want to respect the civil liberties of the patient—remember, they are being held in hospital against their wishes; at the same time, you want to realize that they are allowed treatment. They are allowed a way to get well, get treated and come back to the community, so that they can live full lives, just like everybody else. But the way we have it worded right now, because of the changes we have been doing, you will be taking that away for people who work in mental health.

You may very well have a plan of care that says that he or she is ready to have a day pass into the community. You set up a supervisor for Wednesday morning. They’re going to go to their home, then they’re going to go visit their grandmother, and then they’re going to come back to the hospital—that’s the plan of care. But come Wednesday morning, you go and see them and they are not well; they have taken a turn for the worse. The person who knows the current status of that person in real life will be a nurse practitioner, a family physician or a psychiatrist, if they happen to do rounds that day.

This already exists in the Mental Health Act. It is used all the time. Everybody wants them to get better. Everybody wants them to have a plan of care that returns them to the community. But if we don’t make those changes, we will end up with orders that have no nuance to take into account that we all have bad days. People held on form have bad days also.

This is how we bring safeguards into the Mental Health Act. The safeguards are there. If you don’t do this amendment, you are taking those safeguards away and putting people at risk.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion

number 14. Those in favour? Those opposed? I declare NDP motion number 14 defeated.

We shall move to NDP motion number 15, which is an amendment to section 10, adding a new paragraph 6 to subsection 41.1(2) of the Mental Health Act. Madame Gélinas?

M^{me} France Gélinas: I move that subsection 41.1(2) of the Mental Health Act, as set out in section 10 of the bill, be amended by adding the following paragraph:

“6. Direct that a person be discharged into the community with supports, such as access to community living and appropriate mental health and other rehabilitative resources.”

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: Basically, the Consent and Capacity Board needs to have the power to direct that a person be discharged into the community with support. We heard that during the deputations over and over. That means that to ensure that all patients will have access to community living, and appropriate mental health and other rehab resources, we have to give the Consent and Capacity Board the opportunity to do this.

A lot of what we see in this bill is basically copied from what you do with prisoners, that transition to the community. In the equivalent to the Consent and Capacity Board in the justice system, they have the power to direct community resources because this is how you ensure a safe transition. It is not enough to say that the Consent and Capacity Board will basically give orders to discharge people; they have to be able to give orders to discharge people and give them the support they need to succeed in the community. Otherwise, we all know what will happen: It could have drastic consequences on their quality of life or on their lives, or they end up right back where they were before. Nobody wants that.

The Chair (Mr. Grant Crack): Further discussion? Ms. McMahon.

Ms. Eleanor McMahon: Understanding the intent of the motion, I just wanted to add a few points on the record, if I may, Mr. Chair.

We don't believe that this motion is necessary because the Consent and Capacity Board will already be able to direct the officer in charge to provide supervised or unsupervised access to the community or to place the patient on a leave of absence.

Further, hospitals, of course, develop discharge plans for inpatients prior to discharge. These plans are based on the patient's assessed needs and are developed in consultation with them and with their consent.

Finally, the hospital would consult, of course, in the context of doing a discharge plan, with community services and supports to which the patient would be referred, prior to discharge.

As a consequence of those points, Mr. Chair, we would find this motion to be unnecessary.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: There have been so, so many instances where what you say exists has failed, with cat-

astrophic outcomes. I can give you examples in Sudbury, where people held on form get discharged to a shelter. They don't have a place to live. They don't have a care provider. They don't have access to anything.

Do the hospitals want to do all of what you've just said? Yes, absolutely. But it doesn't always work. By putting it in law, we make sure that what we want and what should be happening actually happens because, as legislators, we have this opportunity to put it in law: to make sure that the best practices, which are there and should continue to be there for the people who need them, actually happen. It is our opportunity to make sure that what we want happening and what should be happening will actually happen.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion number 15. Those in favour? Those opposed? I declare NDP motion number 15 defeated.

We shall move to NDP motion number 16, which is an amendment to section 10, adding a new subsection 41.1(2.1) of the Mental Health Act: Madame Gélinas.

M^{me} France Gélinas: I move that section 41.1 of the Mental Health Act, as set out in section 10 of the bill, be amended by adding the following subsection:

“Other patients

“(2.1) Despite anything else in this act, any patient who has been in a psychiatric facility for six months or more may apply to the board for an order described in subsection (2), and the board has the power to make such an order.”

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: This is a crucial amendment. We have all heard that there are people who are in need of our protection right now. We need to protect the civil liberties of mental health patients and ensure that everyone held in excess of six months in a mental health facility has access to justice. This is the balance that we have been talking about all afternoon.

Many deputants were really clear that the regime—that the CCB review of detention does not and will not apply to information or voluntary patients. Nevertheless, they may be held in a psychiatric facility for an extended period of time, making these patients extremely vulnerable and their state equally deserving of review.

1710

There are many patients in our hospital system right now who are not technically involuntarily detained under the Mental Health Act, but who are kept in hospitals for extended periods of time: think months and years. There are many patients who are technically voluntary, but they are kept in hospital under the threat of being certified, and this certainly targets seniors. These highly vulnerable, informal—or what is labelled voluntary—patients may be in hospital against their will, but they have no mechanism to challenge the condition of their stay in hospital. If the involuntary detention provision of the Mental Health Act could not pass constitutional scrutiny under the *P.S. v. Ontario* case, the situations of patients

who have no access to procedures to review their detention at all, as outlined above, would surely fall afoul of section 7 of the charter.

We submit, and I submit, that voluntary and informal patients are in the same situation as an involuntary patient who has been detained for over six months. These patients suffer from the same conditions of indeterminate detention, which were found to violate the liberty interests of involuntary patients and drew censure from the Court of Appeal, and all without any possibility of review. We recommend that any patient who wishes to apply to the CCB who has been in a psychiatric facility for six months be permitted to access the new review powers outlined in this bill.

I will add some of the comments from the Canadian Civil Liberties Association that says, “Bill 122 must ensure that the Consent and Capacity Board is granted the authority to provide redress and specific remedies to any person held long-term in a psychiatric facility. It should not matter whether this person’s status is formally voluntary but certifiable. The goal of the Ontario Court of Appeal decision is clear: to provide meaningful access to justice for long-term detainees.”

There are many of those people in our Ontario facilities. They know that if they get formed, what the consequences of that are, so they stay in our hospitals against their wishes, knowing full well that the day that they go through the threshold of this hospital and set foot outside, they’re going to be certified and brought right back, often through pretty drastic and dramatic ways, where the SWAT team moves in and the police moves in and it’s an ugly scene for all involved.

It just makes sense that in the spirit of what the Court of Appeal told us, to provide meaningful access to justice for long-term detainees applies just as well if you have been certified and if you have not. The trigger will be six months in a psychiatric facility and wanting to avail yourself of the Consent and Capacity Board.

The Chair (Mr. Grant Crack): Further discussion? Ms. McMahon.

Ms. Eleanor McMahon: While I appreciate the sentiments of the member opposite and the spirit of intent that she’s describing, we already have rights advice mechanisms in place, and this bill provides them. It’s provided to a category of patients, including voluntary and informal patients, to explain their rights to them. So we think that this amendment is, as a consequence, unnecessary.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: So tell me, what are the rights of a person who has been held against their wish in a hospital, in a psychiatric facility, for more than six months? How do they redress? How do they have their wishes addressed?

The Chair (Mr. Grant Crack): Further discussion? Ms. McMahon.

Ms. Eleanor McMahon: Is that a question to me?

M^{me} France Gélinas: That’s a question to anybody on the government side. I mean, you just said that we

already have laws in place that protect their liberties. I’m saying that those laws don’t exist. If they exist, please share them with me and share them with all of the patients who have been there for more than six months.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. Fraser.

Mr. John Fraser: They do have remedy through the courts. Of course, in relation to this decision, if you believe there’s any application on the Supreme Court’s decision, I think it will obviously have an impact, as you said earlier on. That’s the remedy.

M^{me} France Gélinas: To go through the courts?

Mr. John Fraser: Yes.

The Chair (Mr. Grant Crack): Okay. Further discussion? There being none, I shall call for the vote. Those in favour of NDP motion number 16? Those opposed? I declare NDP motion number 16 defeated.

We shall move to PC motion number 17, which is an amendment to section 10, paragraph 1, subsection 41.1(3) of the Mental Health Act. Mr. Walker?

Mr. Bill Walker: Thank you very much, Mr. Chair.

The Chair (Mr. Grant Crack): You’re quite welcome.

Mr. Bill Walker: I was keen to do this.

I move that paragraph 1 of subsection 41.1(3) of the Mental Health Act, as set out in section 10 of the bill, be struck out and the following substituted:

“1. The nature or quality of the serious bodily harm the patient is likely to cause himself or herself or to another person.”

The Chair (Mr. Grant Crack): It’s “cause to himself or herself or to another person,” yes?

Mr. Bill Walker: Yes.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Madame Gélinas.

M^{me} France Gélinas: I will support the PC motion because right now the language that has been borrowed from public safety in paragraph 1 of the proposed subsection 41.1(3) imports a whole bunch of considerations related to criminal conduct, related to punishment and related to justice. None of that applies to the mental health context.

Mental health patients are sick; they are not being punished. They are not criminals and don’t have criminal conduct. They are not being looked after by the justice system; they are being cared for by psychiatric hospitals.

What you have done will serve to further stigmatize mental health patients because whenever a person with a mental illness does something wrong, it makes the headlines of all of the papers and the stigmatization mill goes full tilt. But the truth is that people with a mental illness are the victims of crime way more often than they are the perpetrators, but the language you have brought in this bill is as if they are criminals, they need to be punished and we need a justice system for them.

The tone, the language, all of this is offensive. They are people with an illness. They are not criminals.

The Chair (Mr. Grant Crack): Thank you, Ms. Gélinas. Any further discussion? Ms. McMahon.

Ms. Eleanor McMahon: Chair, I sympathize with the sentiments of the member opposite. This bill, it seems to me, is based on a Court of Appeal decision. In that decision—I'm going to quote it if I may, if you'll indulge me: "The Charter's guarantee of fundamental justice requires that there be a fair procedure to ensure, on a regular and ongoing basis, that the risk to public safety continues and the individual's liberty is being restricted no more than necessary to deal with the risk."

So the language "safety of the public," which you see mirrored here, closely mirrors the language suggested by the Court of Appeal in their decision. Since Bill 122 is an Act to amend the Mental Health Act and the Health Care Consent Act, 1996 further to that decision, that is why this language is here. It's based on a core principle of safety of self and safety of others.

I offer that as a means of explaining why it's here. I hope that's helpful.

1720

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on PC motion number 17. Those in favour? Those opposed? I declare PC motion 17 defeated.

We shall move to NDP motion number 18, which is an amendment to section 10, paragraph 1, subsection 41.1(3) of the Mental Health Act. Madame Gélinas.

M^{me} France Gélinas: Wow, you spitted that out very quickly.

I move that paragraph 1 of subsection 41.1(3) of the Mental Health Act, as set out in section 10 of the bill, be struck out and the following substituted:

"The nature or quality of the serious bodily harm the patient is likely to cause to themselves or another person."

The Chair (Mr. Grant Crack): Thank you, Madame Gélinas. I believe you forgot the "1" in front of "The nature or quality...."

M^{me} France Gélinas: I did. How could I do that?

The Chair (Mr. Grant Crack): We'll just correct that.

M^{me} France Gélinas: "1. The nature or quality of the serious bodily harm the patient is likely to cause to themselves or another person."

The Chair (Mr. Grant Crack): Thank you very much. I will call this particular motion out of order as the result of the previous motion being defeated after thorough discussion. That is the decision.

Ms. Gélinas, point of order.

M^{me} France Gélinas: Point of order: After all of the discussions we've had in the House about trans persons, you would think that when we bring a motion that talks about "themselves," rather than "himself or herself," you would recognize that the world is not always binary and that the motion deserved to be considered for what it stands for.

Interjections.

The Chair (Mr. Grant Crack): I respect the point that you're making. However, I did rule on the motion, so I thank you for your comments. We can actually take that

into consideration as we move forward and conduct government business in the future.

We shall move to NDP motion number 19, which is an amendment to section 10, subsection 41.1(5) of the Mental Health Act. Madame Gélinas.

M^{me} France Gélinas: I move that subsection 41.1(5) of the Mental Health Act, as set out in section 10 of the bill, be struck out.

The Chair (Mr. Grant Crack): Further discussion?

M^{me} France Gélinas: Basically, this section has to be removed. It is unnecessary, given that where a physician proposes a treatment in the context of the patient's present health condition, and the patient or the incapable patient's substitute decision-maker consents to the treatment, the physician can administer the treatment without an order. The provision would only become necessary if the physician sought to hold the patient or the substitute decision-maker to the treatment despite the fact that consent to the treatment was withdrawn. Such a practice would be contrary to the Health Care Consent Act. Where the patient is competent, the law must respect the autonomy of the patient, including their ability to subsequently refuse or withdraw consent to treatment.

Here again, we have to find that balance between the right to care and the right to civil liberty. I think, in order to strike this right balance, the section needs to be removed.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for a vote on NDP motion number 19. Those in favour? Those opposed? I declare NDP motion number 19 defeated.

We shall move to NDP motion number 20, which is an amendment to section 10, subsections 41.1(8) and (8.1) of the Mental Health Act. Madame Gélinas.

M^{me} France Gélinas: I move that subsection 41.1(8) of the Mental Health Act, as set out in section 10 of the bill, be struck out and the following substituted:

"Independent assessment

"(8) In determining whether to make an order under this section, the board may order an independent assessment of the patient's mental condition or risk, or, without restricting the generality of the foregoing, his or her vocational, interpretation, reintegration, educational, or rehabilitative needs, subject to such terms and conditions as the board may prescribe.

"Independent assessment, rules

"(8.1) The following rules apply to the independent assessment under subsection (8):

"1. The assessment must not be connected to the psychiatric facility.

"2. All concerned parties, including the patient, must agree to the choice of person to conduct the assessment."

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: Basically, this amendment is to ensure that patients' needs are addressed, and to uphold the constitutionality of the new provisions. Remember, the court sent this to us because it was unconstitutional. If we put a piece of legislation forward that is still uncon-

stitutional, we haven't moved forward. This section needs to be corrected in order that the court doesn't send it right back to us.

The Chair (Mr. Grant Crack): Further discussion? Ms. McMahon.

Ms. Eleanor McMahon: We would argue that it is not necessary to specify this in legislation because the Consent and Capacity Board can already set terms of an independent assessment in ordering that assessment, and that the Consent and Capacity Board, in appointing an independent assessor, would hear from all of the parties as to who they would request as an assessor.

Finally, the Consent and Capacity Board should have the ability to appoint an independent assessor even where one or more of the parties is not in favour of the assessor who is appointed.

We would argue that it is not necessary to specify this in legislation. As a consequence, this motion is not necessary.

The Chair (Mr. Grant Crack): Further discussion? Ms. Gélinas.

M^{me} France Gélinas: We all realize what she just said. She just said that a patient can go to the Consent and Capacity Board and ask for a reassessment. But under the rules, if we don't pass this amendment, the Consent and Capacity Board can have an assessor that the patient refuses and can impose an assessor that the patient doesn't want. Can you see how we're turning in circles at a fast speed here?

The court told us that the patient has to have the right to go to the Consent and Capacity Board and ask for changes. You do this by being reassessed and proving to the Consent and Capacity Board that you are ready for that change. But then, if you don't have a say as to who does your assessment, you're no further ahead than we were before we started all of that.

The courts are going to see this for what this is: This is not constitutional. The patient who requests an assessment has to be allowed to agree to the assessor.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion number 20. Those in favour? Those opposed? I declare NDP motion number 20 defeated.

We shall move to NDP motion number 21, which is an amendment to section 10, subsection 41.1(10) of the Mental Health Act: Madame Gélinas.

M^{me} France Gélinas: I move that subsection 41.1(10) of the Mental Health Act, as set out in section 10 of the bill, be amended by adding "under paragraph 1 of subsection (2)" after "psychiatric facility" in the portion before clause (a).

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: This is just to clarify the considerations for ordering a patient transfer. It makes it clearer and it makes it fairer.

The Chair (Mr. Grant Crack): Further discussion? Mr. Fraser.

Mr. John Fraser: Just a quick comment: It's already addressed by motion number 12 that we put forward.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion number 21. Those in favour? Those opposed? I declare NDP motion number 21 defeated.

1730

We shall deal with section 10, as amended. Is there any final discussion on section 10, as amended, in its entirety? There being none, I shall call for the vote on section 10, as amended. Those in favour? Those opposed? I declare section 10, as amended, carried.

Sections 11, 12, 13 and 14: There are no amendments. Would the committee consider bundling those?

Mr. Mike Colle: Bundle, please.

The Chair (Mr. Grant Crack): Is there any opposition? There is no opposition that I hear at this point, so we shall bundle sections 11, 12, 13 and 14, as there are no amendments. Any discussion? There is none.

I shall call for the vote. Shall sections 11, 12, 13 and 14 carry? Those in favour? Those opposed? I declare sections 11, 12, 13 and 14 carried.

We shall move to section 15. There is one amendment. It's a government amendment to section 15. It's a new clause, 81(1)(k.5), in the Mental Health Act: Mr. Fraser.

Mr. John Fraser: I move that the amendments to subsection 81(1) of the Mental Health Act, as set out in section 15 of the bill, shall be amended by the following clause:

"(k.5) prescribing a person for the purposes of subsection 39(14);"

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: Is this your opportunity to see psychologists or nurses?

Mr. John Fraser: It does provide the order in council to specify additional persons that could sit on the panels. It does give regulatory power to add any future regulated health professional to sit on the Consent and Capacity Board.

We discussed it earlier in terms of the capacities of different professions to participate. It's within the scopes of practice of a number of professions, and that's something that we believe needs to be considered.

The Chair (Mr. Grant Crack): Madame Gélinas.

M^{me} France Gélinas: Are we going to put on the record that former patients will also be considered?

The Chair (Mr. Grant Crack): Further discussion?

M^{me} France Gélinas: That was a question, Mr. Chair.

Mr. John Fraser: I think that's subject to regulatory—if you're talking about regulatory process, I can't really answer that question. It's on the record, so I can't answer that question for you. It's providing those powers.

The Chair (Mr. Grant Crack): Further discussion? There being none, Mr. Fraser, would you be so kind as just to read what you're moving into the record one more time, as there was some discrepancy, I believe.

Mr. John Fraser: I move that the amendments to subsection 81(1) of the Mental Health Act, as set out in section 15 of the bill, be amended by adding the following clause:

“(k.5) prescribing a person for the purposes of subsection 39(14);”

The Chair (Mr. Grant Crack): Thank you very much. I take it there's no more discussion? The motion is clear. I shall call the vote.

M^{me} France G  linas: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

Anderson, Colle, Fraser, Kiwala, McMahon, Walker, Yurek.

Nays

G  linas.

The Chair (Mr. Grant Crack): I declare government motion 22 carried.

There is one amendment, which just passed, to section 15. We shall deal with section 15, as amended. Any further comments? There being none, I shall call the vote. Those in favour of carrying section 15, as amended? Any opposed? I declare section 15, as amended, carried.

We shall move to section 16, with one amendment. It's amendment NDP motion number 23 to section 16: a new section 85 of the Mental Health Act. Madame G  linas.

M^{me} France G  linas: I move that the Mental Health Act, as amended by section 16 of the bill, be further amended by adding the following section:

“Transition, analysis

“85. The minister shall ensure that a careful analysis is made of the impact of the amendments to this act that are effective on December 21, 2015 with respect to system capacity, staffing resources and patient needs.”

The Chair (Mr. Grant Crack): Further discussion? Madame G  linas.

M^{me} France G  linas: Last week, MPP Forster asked Mr. Sean Court of the ministry whether additional resources would be provided to hospitals during a Consent and Capacity Board hearing. He says, “As part of our consultations, we've definitely heard from the four specialty psychiatric hospitals that they're concerned about the implications on them in terms of resourcing. At this point in time, there are no additional resources that are contemplated to go along with the proposed amendment.”

The Ontario Hospital Association addressed the same concern. They said, regarding staffing, health record resources and patient flow, that member hospitals have indicated to the Ontario Hospital Association that their resources will be significantly impacted. Additional staffing may be needed, and we need to ensure that hospitals have the resources they need to uphold the charter rights of patients, and that corners are not cut.

Further to this, some calculations were done. For a 36-bed hospital—36 psychiatric beds within a hospital—they did the math and they found that the bill, as it is,

would cost them about an extra \$150,000 a year because of the changes that we have made to the Consent and Capacity Board. If you multiply this by the number of psychiatric beds that we have in Ontario, we are talking a \$20-million burden that we have just put on our psychiatric units within our hospitals.

I've been in the system for too long, Chair. That \$20 million is not going to come from heart surgery, or orthopedics or cardiology; that \$20 million is going to come from the care that the people in those psychiatric beds are receiving. It is all good to put forward a piece of legislation that will respect the law and make sure that our Mental Health Act is constitutional, but it is all for nothing if, on the ground, our hospitals are not able to carry that through.

At the end of the day, those boards are really resource-intensive: You have lawyers on both sides that come; you need to prepare; the psychiatrists have to be there; the care team has to be there. And now we have added to this.

My first question—if they are to take questions—is that the people from the hospital sector are telling us that this is a \$20-million ask that you are putting on the hospitals that provide psychiatric beds. How do you intend to deal with this? Are your numbers different than ours, and have you done the math?

The Chair (Mr. Grant Crack): Further discussion? Mr. Fraser.

Mr. John Fraser: I share the concern that we be able to serve any patient in our health care system, no matter what their circumstance or the challenge that they have in life, and I know that the specialty hospitals have come forward and made an estimate of \$20 million.

I think as we go through a process of our yearly budgeting—and I've been around long enough to know a couple of things: In a number of circumstances, you can overestimate what your needs and your costs are. It's good to see what, in reality, you need. As part of the budgeting process, and the funding process, we look at those pressures—I think it's now on a quarterly basis—on hospitals. That kind of level of reporting is there, so I don't believe we need this in legislation.

I'm not quite sure what specifically the burden is—admittedly, there will be some—but I think it can be adequately addressed through the process that we have, from a budgeting perspective, when working with our hospitals.

1740

The Chair (Mr. Grant Crack): Any further discussion? Madame G  linas.

M^{me} France G  linas: It's a little bit disappointing that a member of the government would not know what the burden is going to be, once we pass the law that they have written. The burdens are going to be significant, and resources are going to be needed to address them.

Mr. John Fraser: I said that I understood that, but if you can tell me specifically what the dollars are—I mean, you did say an estimate of \$100,000, but what specifically was the cost that was incurred in that? Will

there be more involuntary patients in the hospitals? I don't think that that's what this legislation addresses.

The reason I say I'm not entirely sure about what those costs are is because, when I look at this legislation that we have going forward and how that's going to impact them, I don't know all the ways that it's going to impact them. I think, in fact, it may have impacts not necessarily in the hospital system but outside it that we will have to address. So I don't think that we would necessarily need to focus in that one area. Through the budgeting process and the way that we look at allocating resources, I think that we can address it.

So it's not that I'm saying that there are no pressures that are there. I'm just not sure that the pressures they're saying they have are exactly the pressures that we have. Maybe we have pressures, as you suggested earlier, outside of the hospitals, and maybe that's where the actual pressures exist. So that was my point.

The Chair (Mr. Grant Crack): Any further discussion? Ms. Gélinas.

M^{me} France Gélinas: The amendment only seeks that we ensure that a careful analysis is made of the impact of the amendments.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion number 23. Those in favour? Those opposed? I declare NDP motion number 23 defeated.

We shall deal with section 16. There were no amendments. Further discussion on 16, in its entirety? There being none, I shall call for the vote. Shall section 16 carry? Those in favour? Any opposed? Section 16 is carried.

We shall move to section 17 and PC amendment number 24, which is new subsections (2) and (3), subsection 18(3), Health Care Consent Act, 1996: Mr. Yurek.

Mr. Jeff Yurek: I move that section 17 of the bill be amended by adding the following subsections:

“(2) Subsection 18(3) of the act is amended by adding ‘or’ at the end of clause (b) and by repealing clauses (c) and (d) and substituting the following:

“(c) until the board has rendered a decision in the matter.’

“(3) Section 19 of the act is repealed and the following substituted:

“Order authorizing treatment pending appeal

“19.(1) If an appeal is taken from a board or court decision that has the effect of authorizing a person to

consent to a treatment, the treatment may be administered before the final disposition of the appeal, unless the court to which the appeal is taken orders otherwise.

“Criteria for order

“(2) The court shall make an order under subsection (1) if the court is satisfied that there is merit to the appeal and the administration of treatment before the final disposition of the appeal is likely to cause irreparable harm.”

The Chair (Mr. Grant Crack): Thank you very much, Mr. Yurek. Unfortunately, I'm going to rule this out of order, as this amendment does seek to open up sections of the act—specifically, subsections 18 and 19—which are not open in this particular bill, Bill 122. Therefore, it is beyond the scope of the bill.

There are no amendments to section 17. Any further discussion on section 17? There being none, I shall call the vote. Shall section 17 carry? Those in favour? Any opposed? Section 17 is carried.

Section 18: Any comments? There being none, I shall call the vote. Shall section 18 carry? Those in favour? Those opposed? I declare section 18 carried.

Section 19 is the short title. Any discussion on the short title? There being none, shall section 19 carry? Those in favour? Those opposed? There being none, I declare section 19 carried.

We shall move to the title of the bill. Any discussion on the title? There being none, I shall call the vote. Shall the title of the bill carry? Those in favour? Those opposed? I declare the title of the bill carried.

I shall call for the vote on Bill 122, as amended: Shall Bill 122, as amended, carry? Those in favour? Those opposed? There being none, I declare Bill 122, as amended, carried.

Shall I report the bill, as amended, to the House? Those in favour? Those opposed? I declare that I shall report the bill, as amended, to the House. Carried.

I would like to thank everyone for their great hard work this afternoon. I wish you all the best in the evening. We shall see you tomorrow.

Interjection: Ho, ho, ho.

The Chair (Mr. Grant Crack): Ho, ho, ho. And I apologize for my phone. It's a brand new phone, it's heating up already, it won't vibrate and you can't get the sound off—so this is great.

This meeting is adjourned.

The committee adjourned at 1746.

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Monday 22 February 2016

Journal des débats (Hansard)

Lundi 22 février 2016

Standing Committee on General Government

Energy Statute Law
Amendment Act, 2016

Comité permanent des affaires gouvernementales

Loi de 2016 modifiant
des lois sur l'énergie



Chair: Grant Crack
Clerk: Sylwia Przewdziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 22 February 2016

Lundi 22 février 2016

The committee met at 1403 in committee room 2.

The Chair (Mr. Grant Crack): I'd like to call the Standing Committee on General Government to order. I'd like to welcome all members of the committee, and those who are replacing as well some of the members who are probably occupied down at the ROMA/Good Roads conference at the Royal York this afternoon. I'd also like to welcome members of the public who will be presenting today.

SUBCOMMITTEE REPORT

The Chair (Mr. Grant Crack): Today, we're here to deal with Bill 135, which is An Act to amend several statutes and revoke several regulations in relation to energy conservation and long-term energy planning. I would remind members of the committee that we did hold a teleconference call as members of the subcommittee dealing with Bill 135. On January 18, we did have that discussion, and I would ask Mr. Tabuns, perhaps, to read the subcommittee report into the record.

Mr. Peter Tabuns: Sure. I'm happy to move it. Your subcommittee on committee business met on Monday, January 18, 2016, to consider the method of proceeding on Bill 135, An Act to amend several statutes and revoke several regulations in relation to energy conservation and long-term energy planning, and recommends the following:

(1) That the committee hold public hearings on Bill 135 in Toronto at Queen's Park on Monday, February 22 and Wednesday, February 24, 2016, during its regular meeting times.

(2) That the Clerk of the Committee, with the authorization of the Chair, post information regarding the committee's business with respect to Bill 135 once in the Toronto Star and in L'Express newspapers during the week of January 25, 2016.

(3) That the Clerk of the Committee, with the authorization of the Chair, post information regarding the committee's business with respect to Bill 135 in English and French on the Ontario parliamentary channel, on the Legislative Assembly website and with the CNW news-wire service.

(4) That interested people who wish to be considered to make an oral presentation on Bill 135 should contact

the Clerk of the Committee by 4 p.m. on Tuesday, February 16, 2016.

(5) That, following the deadline for receipt of requests to appear on Bill 135, the Clerk of the Committee provide the subcommittee members, by email, with a list of all the potential witnesses who have requested to appear before the committee.

(6) That, if required, each of the subcommittee members provide the Clerk of the Committee with a prioritized list of the witnesses they would like to hear from by 5 p.m. on Wednesday, February 17, 2016. These witnesses must be selected from the original list distributed by the committee Clerk.

(7) That groups and individuals be offered 10 minutes for their presentations, followed by up to nine minutes for questions by committee members—three minutes per caucus.

(8) That the committee request from the Ministry of Energy technical and background information on Bill 135, and that this information be provided to the committee before the start of public hearings on Monday, February 22, 2016.

(9) That the deadline for receipt of written submissions on Bill 135 be 5 p.m. on Wednesday, February 24, 2016.

(10) That amendments to Bill 135 be filed with the Clerk of the Committee by 12 noon on Thursday, February 25, 2016.

(11) That the committee meet on Monday, February 29 and Wednesday, March 2, 2016, during its regular meeting times for clause-by-clause consideration of Bill 135.

(12) That the Clerk of the Committee, in consultation with the Chair, be authorized to commence making any preliminary arrangements necessary to facilitate the committee's proceedings prior to the adoption of this report.

The Chair (Mr. Grant Crack): Thank you, and well done, Mr. Tabuns. Appreciate that.

Mr. Tabuns has read into the record the discussion that ensued with regard to how to proceed with meeting on Bill 135. Is there any further discussion on the subcommittee report before I call for adoption? There being none, those in favour of adopting the report on the subcommittee? There are none opposed, so the motion is

carried. The subcommittee report of January 18, 2016, is carried.

ENERGY STATUTE LAW
AMENDMENT ACT, 2016
LOI DE 2016 MODIFIANT
DES LOIS SUR L'ÉNERGIE

Consideration of the following bill:

Bill 135, An Act to amend several statutes and revoke several regulations in relation to energy conservation and long-term energy planning / Projet de loi 135, Loi modifiant plusieurs lois et abrogeant plusieurs règlements en ce qui concerne la conservation de l'énergie et la planification énergétique à long terme.

ONTARIO SOCIETY
OF PROFESSIONAL ENGINEERS

The Chair (Mr. Grant Crack): We shall now move to our delegations this afternoon. As per the subcommittee report, each delegation will be entitled to 10 minutes to present, followed by nine minutes of questioning from each of the three parties.

At this time, I would like to call, from the Ontario Society of Professional Engineers, Sandro Perruzza—he's the chief executive officer—and Rhonda Wright Hilbig, a member of the Energy Task Force. We welcome you both.

Mr. Sandro Perruzza: Thank you.

The Chair (Mr. Grant Crack): You have 10 minutes.

Mr. Sandro Perruzza: I'd like to thank the members of the Standing Committee on General Government for allowing us the opportunity to comment on Bill 135. My name is Sandro Perruzza, and I am the CEO of the Ontario Society of Professional Engineers, or OSPE, as it's often referred to.

OSPE is the voice of the engineering profession in Ontario. We represent the entire engineering community, including professional engineers, engineering professionals, graduates and students who work in several of the most strategic and vital sectors of Ontario's economy. OSPE elevates the profile of the profession by advocating with government, the public and media.

Engineers have the innovative solutions to the problems facing us all. Through these inventions, designs, new products and services, engineers create wealth and will drive the economic engine of the new knowledge economy in Ontario.

OSPE is pleased to provide our analysis on Bill 135, An Act to amend several statutes and revoke several regulations in relation to energy conservation and long-term energy planning, which will impact the economic viability of families living here in Ontario and working in our institutions and will affect the stability and resiliency of Ontario's energy system.

To that end, I've invited one of our expert members of OSPE's Energy Task Force here to present our views. I'm pleased to introduce Ms. Rhonda Wright Hilbig.

Ms. Rhonda Wright Hilbig: Thank you, Sandro. Thanks for the opportunity to come here and speak to you today. I'm a professional engineer registered here in the province of Ontario with about 29 years of experience in the electricity sector. I've done a number of stints in nuclear generation and fossil generation back in the day and spent 10 years in energy management with Ontario Hydro. In my last 15 years, I have been in power system operation with the Independent Electricity System Operator, prior to my retirement last January. I'm now a director with a company called Sygration, which is a data services solution provider to the Ontario marketplace.

I'd like to start out by talking a bit about our analysis of Bill 135. This bill tackles a number of areas in the Ontario electricity sector. There are a number of things which OSPE is quite supportive of. For example, any effort to facilitate energy management plans at government agencies and including the addition of water conservation in the definition of energy management I think are very welcomed by Ontario's professional engineers.

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Another aspect, though, is that the bill also contemplates providing directions to the Independent Electricity System Operator related to construction enhancement and potential reinforcement of the transmission system. As with all infrastructure projects, OSPE encourages the use of qualifications-based selection in these types of procurements and cautions against the use of strictly low-cost bids. We would like to ensure that the committee knows of our preference and, I guess, being a long-standing proponent of this sort of procurement.

The last part of the bill that we'd really like to talk about is that if the bill is enacted as written, the Minister of Energy will make final decisions on energy planning in the province rather than the technical experts who are well trained in these matters at the Independent Electricity System Operator. The experts that we speak about—a number of them are engineers, but not exclusively. They have a long history in the sector. They are well trained and they have the technical background to tackle these complicated planning matters, as well as having the resources, both computing facilities and a diversity of experience, in order to design an effective integrated power system plan.

We caution against removing the requirement for an integrated power system plan from the sector, as this bill is proposing to do. We believe that the IESO should remain as the developer of the integrated power system plan. That plan incorporates a number of impactful areas on this sector. Regional planning, conservation and demand management are all things that are very important to Ontario's economy. We believe that the minister should remain as the approver of the IESO's plan as it is submitted to the Ontario Energy Board, and that the plan should be subject to the board's hearing processes.

With that, I'd like to thank you for your consideration of OSPE's position. We'd be happy to participate in any

future discussion on both the design and the implementation of Bill 135, and we'd be happy to take any specific questions that you might have for us here today.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that. We'll start the questioning component with the official opposition. Mr. Yakabuski.

Mr. John Yakabuski: Thank you for joining us today. You've raised something that has been raised with us before with regard to the view of some that the minister has taken too much power in this bill and is taking it away from the professionals who work in the sector.

Have you got anything in mind for proposed amendments to that section that we can work with? As you heard from Mr. Tabuns, we are going to be having clause-by-clause deliberation beginning next week on February 29. Has the society considered proposing some amendments to the bill that would help us with something that would satisfy your concern from a professional organization point of view, making sure that the professional component is not removed from the decision-making process?

Ms. Rhonda Wright Hilbig: Certainly from the energy task force committee's perspective, I think it really boils down to the removal of the current requirements. I don't think we've looked at any specific wording, but we'd be happy to collaborate on that sort of work in the future.

Do you have anything to add?

Mr. Sandro Perruzza: Yes. We can certainly have the committee meet in the next week and submit something in writing to all members of this committee with our proposed amendment.

Mr. John Yakabuski: So amendments have to be in by the 25th, which is Thursday. We have to submit them, so the committee would have to receive them from you prior to that or any suggestions to that effect. But we've heard this from others as well, and we certainly plan to be proposing amendments to this legislation. Your lexicon on it would be helpful in helping us draft that.

Mr. Sandro Perruzza: Certainly. Thank you.

Mr. John Yakabuski: Thank you very much for joining us today. We appreciate you bringing this forward to the committee because this is where we have to hear it.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to Mr. Tabuns.

Mr. Peter Tabuns: Thank you both for coming in today. I appreciate it.

The concern about the plan being subjected to OEB review—and certainly our party is concerned that there should be hearings; there should be an opportunity for independent ratepayers, independent citizens, to come forward and question the assumptions. What are your concerns if there are not OEB hearings?

Ms. Rhonda Wright Hilbig: The current process provides a hearing process where interveners can come forward and relay their concerns to the effective decision-makers. I guess the concern would be that a

pure stakeholder process may not provide the same level of scrutiny.

Mr. Peter Tabuns: And when you say “the same level of scrutiny”—the government thinks this is a wonderful approach—what level of scrutiny are you talking about?

Ms. Rhonda Wright Hilbig: Speaking on behalf of the committee, a hearing process does provide a very structured question-and-answer adjudicated-type process, which is perhaps a little bit more concrete in getting questions out and responses from the responsible parties.

Mr. Sandro Perruzza: In addition to that, organizations like OSPE exist so that our members, who are experts in the field, have the opportunity to look at it independently through non-partisan eyes and are able to submit some recommendations and suggestions based on just empirical evidence. If this provision isn't allowed us, then I feel that our members don't feel that they're actively participating in the democratic process.

Mr. Peter Tabuns: And the other question I have: Your concern about the bidding method and whether everything that has to be known about the bid is related to its price—can you talk about the problems with simply having a low-cost bid system?

Mr. Sandro Perruzza: Sure. OSPE's not the only organization that's been advocating for a qualifications-based selection process. We're part of a larger consortium known as the Construction and Design Alliance of Ontario, made up of 20 different organizations, all in the construction and design industry.

We have evidence and cases where—by going with the lowest bid, you have situations where companies will save costs on material, quality of materials, quality of design, quality of construction processes in order to get the lowest bid and then, in the end, you have situations like the girders that happened in Windsor with the construction of the Herb Gray Parkway, where Ontario projects are then delayed and excess costs now come into play.

By designing based on a qualifications-based selection process, you're designing something that will meet the requirements of the project, but engineers always like to build in a safety factor. So although you may want a project and build a bridge that is designed to last for 50 years, by just a 2% increase in the overall cost of the project, by putting in proper engineering design principles, you'll now have a bridge that will last 75 to 100 years. We feel that's a much better investment and value to the taxpayer.

Mr. Peter Tabuns: Thank you. I have no further questions.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the government side and MPP Delaney.

Mr. Bob Delaney: Is the IESO the appropriate institution for implementing the policies that are set out in the long-term energy plan?

Ms. Rhonda Wright Hilbig: I think, certainly after the recent merger with the Ontario Power Authority, the

IESO does have the technical staff to be able to carry out that level of power system planning.

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Mr. Bob Delaney: As the entity that, in many cases, speaks for professional engineers, what role do you think OSPE might play in Ontario's energy planning framework?

Mr. Sandro Perruzza: Again, our energy task force members, people like Rhonda and other professionals, are people who have worked in this industry for 25, 30, 40 years. Many of them, actually, have worked within the system and understand where the opportunities were, and they hadn't been able to take advantage of that from within the system and now, speaking through OSPE as an independent voice, are able to take a lot of that experience and reflection into consideration. We can speak with a little bit of authority, and they have a bit of an anonymous voice as well, to actually say, "Here are the opportunities we see, from being within the system."

In Rhonda's submission, she really talked about the expertise and the additional training that goes into these people once they get hired.

The energy system is very unique, very technical. It's a very niche market. You want to be able to take advantage of that expertise when establishing policy.

Mr. Bob Delaney: Okay. I'm going to ask you an open-ended question, and you may want to follow up with a more extensive written response. Based on the experience that you've just outlined, how do you think that process could be improved?

Ms. Rhonda Wright Hilbig: Sorry. The power system planning process?

Mr. Bob Delaney: You talked about some of the experience that has been gained through the participation by members of OSPE over the years. Based upon the experience that OSPE and its members have had, how do you think that process could be improved?

As I said earlier, I ask this question now, but you may want, upon reflection, to provide us with a more fulsome response later on.

Ms. Rhonda Wright Hilbig: Okay.

Mr. Sandro Perruzza: Just at a very high level, OSPE can provide that high-level analysis, I think. We can do a better job of being more prompt with our responses and being more concise with our responses. We have provided a lot of information to this government and previous governments in the past on a number of different issues, including energy. Oftentimes, for whatever reason, those submissions haven't been fully considered and adopted.

I can just reflect on the most recent Auditor General's report, with some of her comments she made around the energy grid and some of the opportunities that had been taken advantage of. OSPE had provided a lot of those recommendations to this government and previous governments in the past.

I think having a more open dialogue based on the empirical evidence will lead to better policy and a more cost-effective energy system that benefits us all.

Mr. Bob Delaney: Thank you very much for coming in.

Mr. Sandro Perruzza: Thank you for having us.

Ms. Rhonda Wright Hilbig: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. Have a good afternoon.

MR. TOM ADAMS

The Chair (Mr. Grant Crack): Next, we have with us Mr. Tom Adams. Welcome, Mr. Adams. You have 10 minutes. We will begin questioning, following that, by Mr. Tabuns from the third party. Welcome, sir.

Mr. Tom Adams: Thank you, Mr. Chairman and members of the committee.

The main focus of my remarks today is to address section 1 of Bill 135—that is, changes to the Green Energy and Green Economy Act.

That schedule of Bill 135 would empower the Ontario government, now or in the future, to order any customer of any size, from the largest manufacturer down to the smallest household, to use a government-approved consultant to report to government all of that consumer's energy and water usage information.

Further, the legislation would arm government with powers to order targeted consumers to file with the government a conservation plan according to the government's design. The government would be able to publish that consumer's data.

Bill 135 does not include provisions for penalties for non-compliance, or penalties for consumers whose reported energy and water usage seems disagreeable to some government official, but it does not seem out of order to anticipate, if the Ontario Legislature continues in its current trajectory towards more central planning, that such penalties might be forthcoming.

After I published a review of Bill 135 in the *National Post*, presenting basically this gloss of the bill's provisions, energy minister Chiarelli responded in the *National Post*. His letter, published in the November 18 edition of the newspaper, said of my column: "He disgraces these pages by torquing what surely started as legitimate questions to new levels of paranoid hysteria."

Minister Chiarelli's letter does not contest any of my description documenting the new powers the government is granting itself, pursuant to the legislation. Rather, the thrust of his argument is that the new energy subpoena powers that the government is granting itself will only be used for good purposes. With overflowing confidence in the superiority of central planning, he asks, "Without these subpoena powers, how can we determine the most efficient route to get to tomorrow?"

Ontario's skyrocketing power rates, ongoing purchases of even more intermittent take-or-pay power generation, export power giveaways that expand by the year, secrecy around amounts paid to generators to not generate, and low-value or no-value conservation programs all suggest that this government's thinking about the most efficient route to get to tomorrow deserves reconsideration.

If the government's conservation initiatives were actually as beneficial to consumers as the government continuously claims, energy and water conservation reporting and analysis programs could be based on voluntary participation. Bill 135 might be easily amended to make participation in resource use disclosure programs voluntary.

When the government presents legislation that could easily introduce voluntary disclosure measures but, instead, adopts aggressive new powers requiring compulsory reporting, I suggest that it is not paranoid hysteria that such powers might have the potential to be abused in the future.

Although I have focused on the coming changes to the Green Energy and Green Economy Act under Bill 135, I want to comment to the OEB Act and the Electricity Act as well.

Power system planning, right down to the level of distribution system planning, will now be completely and directly controlled by the minister. The learned energy lawyer George Vegh has recently comment that, if enacted, section 2 of the legislation would "effectively remove independent electricity planning and procurement authority from the IESO and transmission approval from the OEB." I associate myself with Mr. Vegh's critique.

For the purposes of a thought experiment, let's agree that the current minister is possessed of profound wisdom in all matters related to correctly understanding and predicting the future of energy. But ask yourselves, what might happen if some future minister was appointed by a future Premier, and that future minister was unable to understand the profit or loss of export transactions, the impact of conservation programs on the recovery of overall revenue requirements in a power system during periods of vast excess supply and falling demand, or the impact of adding further intermittent generation as the marginal value of new intermittent generation already sinks? What would be the outcome then?

The Auditor General has found that over the course of many policy initiatives, including the smart metering plan and the 2010 and 2013 government-directed power system plans, the government ignored the advice of its own experts. Ongoing NAFTA arbitration initiated by the firm Windstream, claiming \$475 million in damages against the Canadian government, highlights that politics, not professional advice, drove offshore wind power policy.

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Over the course of all of this politicized decision-making, was the government rewarded for its impatience? Was the government's instinct that it was doing the right thing at the time—how did that work out in hindsight?

The government has responded to the Auditor General's most recent report on energy by claiming that Bill 135 would solve the governance deficiencies identified by the Auditor General.

Eliminating the last vestiges of independence, making the IESO and OEB extensions of the Ministry of Energy,

exacerbate rather than mitigate the deficiencies identified by the Auditor General.

The government and its allies have worked hard over the last two months since the Auditor General's report was issued to deprecate, depreciate and dismiss the Auditor General. I urge the members of this committee to set aside their partisan considerations and to look with fresh eyes specifically at the consequences that have arisen for ratepayers from decisions starting from the smart meter program forward, ignoring professional advice from the IESO and OEB and forcing those agencies to abandon professionalism in favour of passive obedience. Ask yourself: How is it all working out?

The Chair (Mr. Grant Crack): Thank you very much, Mr. Adams. We shall start with the third party. We will have Mr. Tabuns commence.

Mr. Peter Tabuns: Thank you, Tom, for being in here today.

Do you think that this new bill would prevent problems like the gas plant scandal or the—what can I say?—misplaced investment in smart meters?

Mr. Tom Adams: If this legislation passes as it's written, we'll lose some of the checks and balances that are in place in the existing system. I have my criticisms of the existing system, but losing those checks and balances would be a retrograde step. We need them. We need more sober second thought before we leap into multi-billion-dollar decisions.

Mr. Peter Tabuns: Which checks in particular are you concerned about?

Mr. Tom Adams: The original design of initially the OPA and now the IESO's power system planning function anticipated that those power plans would be produced by the professionals and then subject to public review. That provides multiple levels of professional oversight and public participation. All of that is gone under the provisions of Bill 135. Those were valuable criteria in the original design of the hybrid market. Again, I have my criticisms of the hybrid market, but that design had an intelligent concept behind it. The combination of professional drafting of reports and then a public review by an expert administrative law body with specialized energy expertise and the ability to bring public involvement and have cross-examination of witnesses and the testing of evidence—that's a valuable structure, none of which would apply in the post-Bill-135 world.

Mr. Peter Tabuns: I don't have further questions. Thank you very much.

The Chair (Mr. Grant Crack): We shall move to the government. Mr. Delaney.

Mr. Bob Delaney: Can large building owners play an important role in reducing greenhouse gases?

Mr. Tom Adams: Yes.

Mr. Bob Delaney: Okay. Currently, many building managers don't track or measure energy performance, and those building managers that do have no common standard on which to compare themselves across other companies. Should there be such a common denominator

to enable companies to benchmark themselves based on a common standard?

Mr. Tom Adams: It would be up to those companies to decide how to allocate their resources in their analysis.

Mr. Bob Delaney: In other words, there should not be a common denominator to enable different companies to exchange information to determine whether they are ahead or behind the curve, above or below the average.

Mr. Tom Adams: We have precedents for companies co-operating in such arrangements; for example, CIPEC, a federally initiated program to encourage companies to share best practices on energy conservation. These are manufacturing and large industrial resource companies. That program has been operating now, I think, for something like 35 years. It has been tremendously successful. It operates on principles of volunteerism. Volunteerism can work. It doesn't have to have the authority of the state behind it to make it happen.

Mr. Bob Delaney: Just for perspective on the comments that you made regarding the existing or potential motivation of the government, you are the Tom Adams that helped draft the PC energy white paper in the 2014 election?

Mr. Tom Adams: Yes.

Mr. Bob Delaney: Thank you. Thank you, Chair.

The Chair (Mr. Grant Crack): We shall move to the official opposition. Mr. Yakabuski.

Mr. John Yakabuski: Tom, thank you for joining us and for your submission today.

Let me get this clear: In spite of the fact that we've seen multiple ministerial directives during this government's terms of office—more than any other government before, in an exponential way—interfering with the professionals who are supposed to be entrusted to make energy decisions, it's your position that the provisions in this bill, specifically under the planning side of it, would actually set us up for more ministerial interference and a higher level of ministerial power, where they could simply take the recommendations of the IESO or the Ontario Energy Board and completely ignore them?

Mr. Tom Adams: In the existing system as it has evolved, the agencies are subject to directives but they still hold the pen. Now, under Bill 135, the pen shifts. It's not even that the directives are necessary any longer; the function of directives in the Bill 135 world is just to ensure that the agencies implement the plan. The direct authorship now would reside with the minister.

Mr. John Yakabuski: So the IESO and the Ontario Energy Board would essentially become empty vessels, and the minister himself—he or she—it would be totally subject to them for the planning decisions.

Mr. Tom Adams: I believe that they become simply extensions of the Ministry of Energy. They have the same governance relationship with the minister, effectively, that the minister has with his own department.

Mr. John Yakabuski: How long have you worked in the energy field? How long have you been an energy analyst?

Mr. Tom Adams: Since the late 1980s.

Mr. John Yakabuski: Since the late 1980s. So we're closing in on 30 years.

Mr. Tom Adams: Yes, it is closing in on 30 years.

Mr. John Yakabuski: Yes—certainly longer than the Minister of Energy; I'm sure of that.

Have you ever been diagnosed as being a paranoid person? I know I can't ask you those medical record questions, but—

Mr. Peter Tabuns: Only informally.

Mr. John Yakabuski: Yes, only informally.

Mr. Tom Adams: I've been called a lot of names over the years.

Mr. John Yakabuski: So not only do you have more experience in the energy field—we certainly know that the Minister of Energy is not a medical doctor. He's not capable of making those diagnoses.

Anyway, that is the concern that we continue to have as well: that a government that has controlled this sector with an iron fist, so to speak, which has driven up hydro rates by four times since they've gone into office—they've made a lot of wrong decisions, obviously. Now we're actually going to make the individual minister more powerful than they are today if this bill is not amended.

Mr. Tom Adams: The action that's going on at NAFTA right now, where the Windstream arbitration is being heard as we speak, illustrates beyond a shadow of a doubt the consequences of having a minister with such powers. The potential impacts on the public interest seem to be profound.

Mr. John Yakabuski: And it's not only that; there's more than one action at NAFTA as a result of this government's—

Mr. Tom Adams: There's a pending decision from another company called Mesa Power. The combined potential downside for the taxpayer is in a range exceeding \$1 billion.

Mr. John Yakabuski: Wow.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it.

Thank you, Mr. Adams, for coming before the committee this afternoon.

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MR. MARK WINFIELD

The Chair (Mr. Grant Crack): Next we have the co-chair of the Sustainable Energy Initiative at the faculty of environmental studies at York University, Mr. Mark Winfield. Mr. Winfield, we welcome you this afternoon.

Mr. Mark Winfield: Thank you.

The Chair (Mr. Grant Crack): You have 10 minutes.

Mr. Mark Winfield: My name is Mark Winfield. I'm an associate professor of environmental studies at York University. I chair something called the Sustainable Energy Initiative, which is our effort to integrate teaching partnership and research around sustainable energy at the university.

I've followed the evolution of the province's approach to electricity system planning closely since the concept of system planning was reintroduced in 2004. I've published a number of articles and papers on the subject. I believe the Clerk has circulated a copy of the most recent book chapter, which isn't quite in press; and also an op-ed I had in the *Ottawa Citizen* around the gas plants cancellation scandal and how that related to failures around the planning process. I actually appeared before the Standing Committee on Justice Policy in its study on the gas plants cancellation scandal as well.

The proposals that are being advanced in Bill 135 have been around for some time. They were actually first proposed in 2012. Bill 75, the first iteration, died on the order paper when Premier McGuinty prorogued the Legislature in October 2012.

The electricity system planning process established in 2004 through the Electricity Restructuring Act created and mandated the Ontario Power Authority to develop integrated power system plans for the province's electricity system. These plans were then subject to review and approval by the Ontario Energy Board on the basis of their cost-effectiveness and prudence.

Ontario regulation 277/06, made under the Electricity Act around the same time, required that the OPA demonstrate to the OEB that it considered sustainability and environmental protection and safety in the development of those plans.

At its core, Bill 135 would abandon even this very limited structure of public review of proposed system plans. System plans would be developed by the Minister of Energy and approved by the cabinet. The OEB and the IESO would then be required to implement these plans. There would be no requirement for review or approval before the Ontario Energy Board.

In my view, quite bluntly, this proposal is bad in terms of energy policy, it's bad in terms of economic policy, it's bad in terms of environmental policy and it is also politically unwise. It seems the government hasn't learned very much from the gas plant cancellation adventure.

Electricity system plans are the largest single net infrastructure investments made by the province. They carry with them major economic and environmental risks around the technological choices, costs and performance of different technologies. They carry risk of underbuilding or overbuilding infrastructure in a period of high economic uncertainty, and they carry risks of technological lock-in in what may be the most significant period of technological innovation in the electricity sector since the emergence of utility systems a century ago. We have seen game-changing developments in renewable energy technology, smart grids, distributed generation and energy storage.

The proposed legislation would mean that system plans and their contents would be subject to no meaningful external review. There would be no review of their economic rationality, cost-effectiveness or prudence through the Ontario Energy Board. There would be no

environmental review under the Environmental Assessment Act or any other mechanism. There would be no review in terms of their resilience and ability to adapt to changing economic, social or technological circumstances. And there will be no opportunities for non-governmental stakeholders—non-governmental organizations, industry, consumers and others—to challenge in a formal way key assumptions, data and risks that the plans may embed.

In effect, this legislation abandons the notion of rational planning in the electricity system. The long-term design and management of the system would be effectively treated as a political matter. Ontario needs a rigorous, independent review of electricity system plans before they're finalized to move toward implementation.

The IESO or another appropriate body needs to be mandated to develop plans and revise plans on a regular basis. These plans need to respond to specific direction and criteria laid out in legislation. The plans need to be subject to external public review and approval before they're implemented by a body with appropriate economic, environmental and technical expertise.

I'd also highlight that the approach the province is taking here departs quite significantly from the norm you see in other jurisdictions in North America, which is that you have the utility develop some sort of a system plan and then it goes before some sort of regulator for review as to whether or not the plan is going to be allowed to be implemented or not. Without a framework like that, the finances, energy security and environment of Ontario residents and electricity ratepayers will continue to be at risk.

Given my concerns with the overall structure of the bill, I can only offer some very limited amendments. My first option, frankly, would be to strike out part 2 altogether. Failing that, I have made some suggestions, particularly around the articulation of the system goals in section 25.29(2). These relate to advancing sustainability, addressing economic prudence and risk, ensuring resilience and adaptive capacity, avoidance of catastrophic events, advancing energy efficiency and renewable energy sources, and ensuring appropriate consultation in the development of system plans.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Winfield. We shall start with the government. We'll begin with Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you, Mr. Winfield. Long-term energy planning is essential to a clean, reliable and affordable energy future, and Ontarians have been very clear that they want to play a larger role in our government's long-term energy planning process.

Our government is enshrining a long-term energy planning process that is transparent, efficient and able to respond to changing policy and system needs. This has not been done in the past. The 2013 LTEP was the biggest, most open and comprehensive consultation process in the Ministry of Energy's history.

Also, the legislation would enshrine the long-term energy planning process that developed the 2010 and 2013 long-term energy plans to ensure that future long-

term energy plans are developed consistent with the principles of cost-effectiveness, reliability, clean energy, community and aboriginal engagement.

I'm looking at your sources, and is it not true that every one of these sources down here, you either wrote or co-wrote?

Mr. Mark Winfield: Yes, that's the point. This is just qualifying me as a witness, as someone who knows something about the subject matter.

Ms. Ann Hoggarth: Thank you.

Mr. Mark Winfield: Lots of other people have written on this, too.

Mr. John Yakabuski: Is that it?

Ms. Ann Hoggarth: Yes.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the official opposition: Mr. Yakabuski.

Mr. John Yakabuski: Well, I thank you for writing these, Mr. Winfield, and thank you for joining us today.

It just boggles my mind as to the government that has politicized the electricity system more than anyone in the past—it seems that they almost want to take absolute control with this bill, Bill 135. You, as a professor at a university, have seen the same problems with it as Mr. Adams has seen with the overarching control that the government would want.

I have to wonder: Which one of Putin's secretaries wrote this bill for the minister, because it just seems to be—

Mr. Bob Delaney: Chair, on a point of order: That one is way over the top, imputing motive to—

Mr. John Yakabuski: No, it's not imputing motive at all. I'm looking at Mr. Winfield's submission and I really love the way he's written it: "no review of the plan"—

The Chair (Mr. Grant Crack): Mr. Yakabuski, I'm sorry to interrupt, but Mr. Delaney has asked whether that's a point of order or not. Thank you, but it's not a point of order. You may not like what Mr. Yakabuski is saying, but continue, sir.

Mr. John Yakabuski: Thank you.

"—no review of the plans' economic rationality, cost-effectiveness or prudence through OEB;

"—no review of the plans' environmental impacts and risks under the Environmental Assessment Act or other comparable processes;

"—no review of the plans in terms of their resilience and ability to adapt to changing economic, environmental, social or technological circumstances...."

There's no review. Yet the minister can take all of the planning that has been offered to them through the IESO or the OEB and simply take a look at it and say, "No, thank you. I've got a better idea." Is it your interpretation that, under this bill, that's what he could do?

Mr. Mark Winfield: That's the essence of my interpretation here, yes.

Mr. John Yakabuski: How could that possibly be, in a time when governments talk about consultation and engagement with people, an improvement?

Mr. Mark Winfield: I think my conclusion is that it's not. Frankly, I'm somewhat baffled at this, because it does embed political risks on the part of the government, too, in a sense that they're taking complete and full ownership of wherever this goes, which has been part of the reason why governments typically have not gone down this kind of a path.

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Mr. John Yakabuski: What do you think their motive is? I can't question their motives—and Mr. Delaney will call me on a point of order—but you certainly can.

Mr. Mark Winfield: My short answer is, I don't know. Frankly, I'm at a bit of a loss to explain it. It is a departure from the practice you see in other jurisdictions.

Mr. John Yakabuski: Have you written an op-ed on this at all?

Mr. Mark Winfield: Not on the current version, no.

Mr. John Yakabuski: No, you don't want to, because you'll be accused of being paranoid. So be careful—

Mr. Mark Winfield: I don't know about that. But I am, quite frankly, at a bit of a loss to understand the government's rationale. To a certain degree, it may be that they found that the OPA's process was too rigid and too inflexible, and the attempts to develop plans were overtaken by events, repeatedly. But rather than moving towards a planning process which is more adaptive and more iterative, which is what I think you need to do in response to that circumstance, in a sense there seems to be a conclusion, "Well, if we manage this at the political level, we can be more nimble or more responsive." It's the only explanation I can really offer.

Beyond that, I'm at something of a loss. It just doesn't make a lot of sense to me. The risks here are very, very significant—economically, technologically, environmentally. The fundamental problem—

Mr. John Yakabuski: Well, you ignore the experts at your own—

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it. You had quite a bit of extra time on that. My apologies.

Mr. John Yakabuski: Thank you very much.

The Chair (Mr. Grant Crack): We shall move to Mr. Tabuns, from the third party.

Mr. Peter Tabuns: Mark, thanks very much for taking the time to come in today. I actually don't find it a problem that you've authored quite a few articles of substance when it relates to the electricity system.

You note that this bill, effectively, ignores all the lessons we should have learned from the gas plants scandal. Can you tell us what those lessons were that were ignored?

Mr. Mark Winfield: I think the problem here was precisely that, absent an external review of the plans that were developed by the OPA through the OEB and even, indeed, under the Environmental Assessment Act as well, when things began to go wrong, when there began to be objections raised to these facilities, in effect there was no explanation. There was no way to explain why we were doing this and why we were building these facilities and

where we had taken these sorts of considerations that the community was raising into account in the decision-making process—because that hadn't happened, fundamentally. There had been no stage at which there had been an opportunity to ask the questions: "Why are we building gas-fired power plants? Why are we building them in these locations? Did we take into account some of the local considerations around air quality and those sorts of questions?" There simply had been no process in which to do that, and when the community began to organize and push back, there was, in effect, no response, nowhere to go. You ended up in a situation where the Premier's office had to intervene, to try to improvise a fix in the short term, and that set in motion a series of cascading events that I don't need to remind members here about. Fundamentally, in my mind, it flowed back to the fact that, absent a proper planning process in the first place and anywhere to go from that, in a formal sense, when things began to go wrong, it was almost an inevitable outcome. This is what happens when you go down this pathway: You end up managing things in a political sense because you've got nowhere else to put the conversation.

The idea here is precisely that you would have the plans reviewed by the Ontario Energy Board or some other body as may be appropriate, to think about these sorts of questions before we move into implementation, so that if people do start to raise questions—"Why are we building a plant here? What considerations went into that?"—there's at least some sort of an answer they can be provided with.

Mr. Peter Tabuns: You note that, effectively, environmental protection considerations are now taken out of this process. Could you talk about the risk that provides?

Mr. Mark Winfield: One of the subtle dimensions of this is that the requirement to consider sustainability, which had been embedded into the earlier IPSP process, vanishes. There is some language in the legislation that makes reference to the environment, but of course implicit in this and, indeed, explicit in the legislation is a decision to exempt any plans from the Environmental Assessment Act, and really to provide no substitute process of any nature that I can identify in response to that. So this is a significant step backwards. We did, at one time, review the equivalent types of plans under the act, and indeed the one time that happened, in the late 1980s, I think the long-term view on that would be that the province benefited greatly from it. We avoided building a great deal of infrastructure at very great expense that, in the end, it turned out we wouldn't have actually needed.

The Chair (Mr. Grant Crack): Thank you, Mr. Winfield, for coming before our committee this afternoon. We appreciate it.

EFFICIENCY CAPITAL CORP.

The Chair (Mr. Grant Crack): Next on the agenda we have, from the Efficiency Capital Corp., vice-

president of energy solutions Allison Annesley. I believe that's correct. Welcome to committee this afternoon. You have 10 minutes.

Ms. Allison Annesley: Thank you very much. I appreciate that. Thank you for hearing my presentation. I'm actually here to speak to the proposal for the energy reporting requirements specifically, which we at Efficiency Capital are very much in support of, particularly the idea of having that information be made public.

Efficiency Capital is a private sector company, and we source, finance and oversee energy efficiency retrofits for large buildings, so essentially we help building owners to leverage their future energy utility cost savings in order to pay for efficiency upgrades, with little or no upfront capital. We do this using an energy savings performance agreement. It's an innovative financing tool, and it's a non-debt instrument that offers also a performance guarantee backstopped by third-party insurance. We have a strong interest in using the data that would be available from publicly reporting in order to identify which buildings can use our help. We also would like to use that same information to develop persuasive proposals that would in turn help to convince more building owners to do deep, comprehensive energy efficiency retrofits in order to be able to capture the multiple benefits specifically for the building owners, including reduced operating costs, the associated reduction in greenhouse gas emissions, enhanced building value, the ability to attract and retain tenants, as well as improved air quality, environmental comfort and improved operating efficiency for the buildings.

I have distributed a handout that just explains some of the other statistics that help support the business case for energy efficiency, including the fact that, in terms of retrofits, 80% of the buildings that we'll be using in 2050 have already been built, so that makes energy efficiency retrofits a tremendous opportunity. However, there is one major barrier that's cited by 42% of North American organizations surveyed about what stops them from doing more, and that's access to capital. So Efficiency Capital would like to have the opportunity, through accessing this data, to identify more of the buildings that can use our help in order to do the energy efficiency projects that they would like to do if they had access to that capital. I'd also like to point out that that's an opportunity cost, not taking advantage of those savings. The projects that we've done, the building retrofits we've done, typically have between 10% and 40% energy savings post-retrofit.

We'd also like to have the opportunity to assist in helping to grow the green economy, because for every dollar that's spent on energy efficiency, research has shown that there is an associated \$5 to \$8 increase in gross domestic product; in addition, 30 to 52 job-years are created. I mentioned also the ability to attract and retain tenants. Research shows that 30% of organizations are willing to pay a premium to lease space in green buildings. In addition, a recent study conducted by TD Economics in Toronto about our local condominium

market showed that condo unit buyers are willing to pay an average of 5% as a premium for LEED silver-certified units and up to 14% on resale for LEED gold units. The units that offer the most green features actually have a significant increase in value as a result of their efficiency.

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The Chair (Mr. Grant Crack): We're done?

Ms. Allison Annesley: Yes. Essentially, that is my point. We would love to have the opportunity to use the information that would be available in order to help more buildings become energy efficient.

The Chair (Mr. Grant Crack): Thank you very much. We shall start with questioning from the third party. Mr. Tabuns.

Mr. Peter Tabuns: I've had a fair amount of experience in the field, and I very much like the idea of what you're doing. Can you give me the calculation or the base for saying that a dollar in energy efficiency gives a \$5-to-\$8 increase in GDP and the 30 to 52 job-years that are created?

Ms. Allison Annesley: That research was done by the Acadia Center. I didn't crunch the numbers myself.

Mr. Peter Tabuns: Fair enough. Can you give us a sense of the market in Ontario for this kind of energy efficiency work?

Ms. Allison Annesley: Well, that's what we're hoping this data will help provide us. We would like to know more about where those buildings are because the class A buildings are already maximizing their opportunities for energy efficiency for the most part, but there are a lot of buildings that can't afford to do it and having access to capital in order to be able to do the projects now helps to mitigate the opportunity cost of leaving it until they become laggards and are no longer able to attract and retain tenants.

Mr. Peter Tabuns: Can you give us a sense of the scale of the market that exists today? If class A buildings are already doing this kind of work, what sort of dollars are we talking about spending on an annual basis to increase energy efficiency?

Ms. Allison Annesley: I can only speak to what the costs would be per project, and that varies, of course. But when we look at a midrise building, a retrofit could be \$1 million, \$2 million, \$3 million. Even the cost of an audit is a barrier, we find. Despite the fact that there are incentives for the audit, you still have to pay up-front.

Mr. Peter Tabuns: Right. And do you have a sense of how much construction work in dollar value is currently being generated by this activity?

Ms. Allison Annesley: You mean in retrofits or new builds?

Mr. Peter Tabuns: Yes, in retrofits.

Ms. Allison Annesley: Not enough.

Mr. Peter Tabuns: That's a round figure.

Ms. Allison Annesley: It is. No, I don't have the industry-wide information. We are a relatively new company that's trying to tap into this market, and we're offering an innovative product that is not available in

every jurisdiction. We'd like it to become more widely available.

Mr. Peter Tabuns: I don't have any further questions. Thank you very much.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. We shall move to the government side. Ms. Martins.

Mrs. Cristina Martins: I wanted, first of all, to thank you for being here today and to thank you and your company for the work that you're undertaking to help and assist building owners retrofit their buildings and reduce greenhouse gases here in Ontario.

As you are well aware, the large building owners can really play an important part in helping Ontario reach its objectives when it comes to conservation and GHG reduction through the energy and water reporting and benchmarking. I think in 2013 large buildings accounted for about 19% of the total GHG emissions in Ontario—a significant percentage.

As I understand it, one of the largest barriers to building owners is that they currently don't have the baseline in how to—any improvements they can make to what it is they are doing, they don't have that baseline. I guess it's up to us to first inform building managers and perhaps make them understand how much energy and water is being used in order for them to identify how to better improve what it is they're doing.

My question is: Do you believe that reporting and disclosure is a low-cost, market-based policy tool to help overcome these barriers?

Ms. Allison Annesley: Yes, I absolutely do believe that. If you add in the offsite generation, I believe that figure goes up to 26%.

Mrs. Cristina Martins: Thank you. Similarly, do you believe that a lack of publicly available building performance information prevents property managers from comparing building performance and valuing the importance of making energy efficiency investments?

Ms. Allison Annesley: Yes, I do. I believe that energy performance transparency would be a very strong driver in the marketplace.

Mrs. Cristina Martins: Okay. And are there any additional ways that Efficiency Capital Corp. would augment the current proposal that we're debating here today?

Ms. Allison Annesley: I think that making the information public is the most important part for us in terms of the energy reporting requirement. But also making the conservation demand management plans publicly published would assist us too, because when a building doesn't go forward with a proposed energy efficiency retrofit, we often find that if you go back to see that same building after a period of time, really nobody has looked at the information. Pressure to report publicly and continue to monitor what's happening with your building and whether or not you've addressed the problems that have previously been identified I think is also a strong motivator.

Mrs. Cristina Martins: Okay. Those are all my questions. Thank you very much.

The Chair (Mr. Grant Crack): Thank you, Ms. Martins. We shall move to the official opposition. Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much for joining us today. It's nice to see you again.

Ms. Allison Annesley: Thank you.

Mr. John Yakabuski: When one of these retrofits would be done, what would be the average for energy savings as a percentage? You may have mentioned that in your—

Ms. Allison Annesley: Between 10% and 40%. It depends on the measures, obviously, the scale of the building—

Mr. John Yakabuski: And how inefficient it was in the first place.

Ms. Allison Annesley: How inefficient it was in the first place. And we are looking at water, natural gas and electricity, so there will always be a combination of measures. How we try to make these projects work is by combining faster payback measures with some of the harder-to-pay-for measures.

Mr. John Yakabuski: In general, of the retrofits that you've experienced or you've been involved in, what would be the average payback time?

Ms. Allison Annesley: Under six years.

Mr. John Yakabuski: Under six years?

Ms. Allison Annesley: In order for us to take on the project, yes. We will take some of those harder-to-pay-for items, like boilers and chillers, and blend them with some of the faster payback items, which would include water-efficient fixtures, as well as LED lighting conversions, for example.

Mr. John Yakabuski: On what types of buildings is the efficiency capital involved? Where does it apply?

Ms. Allison Annesley: We operate in multiple sectors, but we've had a lot of success in the multi-unit residential sector. They seem to really need our help.

Mr. John Yakabuski: A lot of the stock of multi-unit residential was built 40 years ago. They probably are less than efficient by today's standards, so there's probably a lot of available stock in that genre.

Ms. Allison Annesley: Absolutely. Older buildings, but also buildings where there have been few recent upgrades.

Mr. John Yakabuski: Okay. Thank you very much for your presentation today. I know we're dealing with the first part of the bill here. Do you have any views on the second part of the bill, the planning part of it?

Ms. Allison Annesley: I'm really only here to speak to the part that—

Mr. John Yakabuski: With regard to the energy savings and efficiencies.

Ms. Allison Annesley: Yes. Yes, I am.

Mr. John Yakabuski: Thank you very much, Allison. I appreciate you coming today.

The Chair (Mr. Grant Crack): Thank you, Ms. Annesley, for coming forward to committee this afternoon. We appreciate it.

Ms. Allison Annesley: My pleasure.

BUILDING OWNERS AND MANAGERS ASSOCIATION TORONTO

The Chair (Mr. Grant Crack): We're doing quite well time-wise, so we'll call our next delegation this afternoon from the Building Owners and Managers Association of the greater Toronto area, BOMA. I believe we have Mr. Gnanam with us, who is the director of sustainable building operations and strategic partnerships; and also Adrien Deveau, who is a member of the board of directors.

Gentlemen, we welcome you. You have 10 minutes.

Mr. Bala Gnanam: Thank you. My name is Bala Gnanam. I'm the director of sustainability and building technologies with the Building Owners and Managers Association, commonly known as BOMA Toronto. The gentleman to my right is Adrien Deveau, who is a member of the board of directors.

BOMA Toronto is a not-for-profit industry association established back in 1917 and represents over 80% of all commercial real estate in the GTA and beyond. Our membership includes all leading building owners, property and facility managers, developers, corporate facility managers and leasing professionals, as well as service providers that cater to the commercial real estate industry. Our mission is to develop, promote and advance best management practices in the real estate industry through advocacy, education and networking.

On behalf of BOMA Toronto and its membership, I would like to thank this committee for this opportunity to provide our feedback on the proposed amendments to the Green Energy Act, 2009.

As a major stakeholder in the province's commercial real estate industry, we are fully supportive of any initiative aimed at promoting building performance and environmental stewardship. We also welcome the minister's customer-centric approach to the province's long-term energy plan.

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Our members own or manage buildings across Ontario. As such, we ask this committee that the discussions related to energy and water reporting be maintained at the provincial level and not be relegated to individual cities or municipalities, so that our members are not subject to a risk of coping with various degrees of reporting requirements from different Ontario jurisdictions.

While we understand the benefits of benchmarking and how the reported consumption data could be used by the province to help improve energy infrastructure and design better programs for consumers, we recommend that this be done in a manner that is efficient, practical and does not impinge on the business interests of commercial real estate owners and managers and their right of privacy. As such, our role as the representative and advocate for all commercial real estate owners and managers is to work with the province and other stakeholders to ensure that all of the industry concerns are addressed adequately, that the final outcome is beneficial to all parties and that the overall objectives of these regulations are achieved and sustained.

I have included within the package before you a copy of BOMA Toronto's energy and water reporting and benchmarking policy document. The recommendation outlined within the policy document is built on consensus from our ERB task force, which is comprised of senior representatives from all leading commercial real estate owner-manager firms in Ontario. Considering that many of these firms also own and manage facilities across Canada, our policy document also represents our national sentiments with respect to this subject.

In order for proposed amendments to be meaningful and deliver lasting results, it is essential to understand how the various types of buildings are managed and operated, the nature of building relationships between landlords and tenants, and the inherent issues related to getting access to energy data from tenants or utilities. Also, in the case of industrial and retail buildings, there are legitimate privacy concerns with sharing or releasing the utility information because the amount of energy used by many businesses is part of their competitive advantage or disadvantage, as the case may be. As such, there is a real sensitivity to collect and share this information.

Tenants under these circumstances are metered directly by the distributor. The landlords are usually not privy to this information. In this regard, BOMA is supportive of the proposed amendment to section 7.3. However, in the interests of landlords of industrial and retail buildings, we recommend that the language be extended to direct distributors, upon request, to provide the consumption data to the landlord in an aggregate format for a given address. This would allow the distributor to provide the landlord access to the consumption data for the whole building while maintaining the anonymity of individual businesses or tenants housed within that building and their consumption data private and confidential.

We would like to address the proposed amendments within the context of two main areas: reporting and disclosure. From the reporting side, BOMA is seeking clarity on the term "prescribed person" in section 7 of the proposed amendments. Is a prescribed person to mean landlord or tenant or both, as each interpretation would carry different implications, depending on the asset type?

Considering the disparity in the way that buildings of certain types and sizes and asset classes are managed, BOMA Toronto recommends that the implementation of ERB regulations be phased in to allow for sufficient time for the industry to fully understand the requirements and take the necessary actions to become compliant. Special consideration is required for industrial and retail buildings because of the reasons indicated earlier. A set of nine recommendations, including defined circumstances for special exemptions, are provided in section 1 of our policy document.

With respect to section 7.1 of the proposed amendments, additional requirements for CDM plans or energy conservation in general under the proposed regulations should not become an administrative burden. The regulations should avoid duplication of initiatives that are

already under way and should not impose additional costs. Furthermore, such additional requirements should not impede great efforts and initiatives that are already being undertaken.

We believe that this proposed requirement should be kept outside the Green Energy Act. There is no value in expecting landlords to submit copies of the CDM plans or the energy assessments as the province neither has the resources to review such submitted materials nor does it have the resources to ensure such plans are implemented as stated. Since the implementation of such plans is influenced by many factors, including previously planned work, tenant vacancy, turnover etc., it would be very difficult to enforce. Why impose an impractical requirement? Section 4 of our policy document covers the requirement in greater detail.

When it comes to disclosure, our assessment of similar policies in various US jurisdictions reveals that the intent of such policies is not to hold landlords responsible for improving the performance of their buildings, but rather to account for and to track energy consumption and to hope that the public disclosure of certain energy data would motivate landlords to improve the performance of their buildings. In the US, such policies do not enforce performance improvement, and the only measure of compliance is meeting the reporting deadline.

BOMA Toronto does not endorse punitive methods or any form of public shaming through disclosure of a specific performance metric to improve energy performance. We believe in bringing about change through education and sustained market/sector engagement.

As many energy and performance data elements are considered strategic information, the building owners' and tenants' need to keep certain strategic details confidential must be respected. We understand the benefits of the monitoring and tracking of energy use and benchmarking buildings, and we are aware that such strategies have been shown to improve buildings' performance over time. However, there has been no empirical evidence to suggest that publicly disclosing energy performance leads to the same outcome, according to a study from Harvard University.

However, some degree of disclosure, perhaps defined as social benchmarking, has been shown to impact consumption behaviour. Under such circumstances, it is reasonable to expect the owners and managers of large commercial properties to share some performance data, but every effort must be made to protect their privacy and business interests, as well as that of the businesses housed within their buildings.

As such, we recommend the disclosure of only certain metrics that are relevant to achieve the objectives of the ministry, outlined in section 2.2 of our policy document. Section 2 in general provides an area of recommendation, including provisions for exclusion under special circumstances.

In conclusion, I would like to reiterate the point that, while we are supportive of initiatives to improve building performance and promote environmental stewardship and

the stated objectives of the proposed amendments to the Green Energy Act, we recommend that they are done in a manner that is efficient, practical, and with a full understanding of the various nuances associated with the management and operation of different commercial asset types. Such regulations should also not negatively impact the business interests of commercial real estate owners and managers and their tenants, and should not impose any undue financial burden. Thank you.

The Chair (Mr. Grant Crack): Thank you very much.

We'll start with the government side. Mrs. Martins.

Mrs. Cristina Martins: Thank you very much, and thank you both for being here today.

It's my understanding that BOMA Toronto has been involved quite early on in terms of feedback from industry and from organizations in developing large building energy and water reporting and benchmarking.

If you could just tell me: What is the difference—and what kind of impact on your industry, on your organization—on whether this proposal were to be adopted at a province-wide level versus, say, municipality to municipality to municipality?

Mr. Bala Gnanam: The impact is that many of our members have buildings across Ontario. For example, if Mississauga were to have its own regulation with respect to reporting—and then Toronto, and then Vaughan—that would create such chaos and it would become such a burden. I think it would take away from the true intent of the regulation. That's why, right from the beginning, we propose that it's to be taken as a provincial initiative.

Mrs. Cristina Martins: So province-wide regulation is the way to go with this.

Mr. Bala Gnanam: Absolutely.

Mrs. Cristina Martins: What is BOMA Toronto's view with regard to the proposed phased-in implementation of energy and water reporting and benchmarking?

Mr. Adrien Deveau: We agree that it should be phased in.

At the end of the day, we want this program to be successful. We just know, from the level of sophistication of different landlords, of different asset classes and also of different sizes, you get a greater—the landlords managing AAA buildings downtown have a higher level of sophistication than a mom-and-pop shop running a 50,000-square-foot office building in north Vaughan. The point is, if you phase it in to be the largest asset types first and the ones that are the office asset class, as opposed to multi or residential or industrial—both of those asset classes present some unique challenges. It'll be easier for the industry to accept it as a whole and harder for people to say no to it when early phase-outs just happen smoothly.

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Mrs. Cristina Martins: Thank you. I guess my other question is, how else can we improve on what we are proposing? Are there any suggestions, anything else that you think we need to make sure that this is part of what we're talking about here today?

Mr. Adrien Deveau: I'd say one of the big things is the whole effort to normalize, to understand what the numbers mean. When you're doing comparisons, in our view, it's really important to have apples-to-apples type comparisons that mean something. Our paper covers this a little bit, but in terms of Energy Star for office buildings, it's a tool that exists and makes us able to compare buildings to one another on what's different about those buildings. But that same type of tool doesn't exist for assets like multi-unit residential buildings or industrial or retail, and it makes it really difficult to know. If you've got two numbers of energy intensity, the amount of energy used per square foot in that building or per rental unit in that building or per number of persons in that building, how do you compare, as you mentioned earlier, a 40-year-old asset that doesn't have air conditioning to a modern asset that does have air conditioning and maybe a pool? Maybe the individual occupants, owners or tenants are sub-metered, so they have incentive to reduce their energy use in their suite, where the 40-year-old one isn't sub-metered. It's a hodgepodge that makes it really hard to compare two numbers.

That can be detangled as an industry if we get to a normalized tool, but even today, in 2016, the thought would be that such tools exist and they don't, and they're not necessarily on the horizon of months away. I would say it's likely years away before those tools exist. But factoring that into this and being the end goal of collecting data now so that somebody can create those tools, like Enercan or, in the United States, the Environmental Protection Agency—that, to me, would be a fantastic outcome of this.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate it. I gave you a bit of extra time.

We shall move to the official opposition. Mr. McDonell.

Mr. Jim McDonell: Thank you for coming today. Are you somewhat worried that it will be a plan that just generates a lot of collection of data; that, really, a lot of it can't be used or is of no use and generates a lot of regulation that building owners just don't really need?

Mr. Adrien Deveau: Well, I'd say almost the same thing. Our experience is that the large, sophisticated landlords are already—this won't be a burden for them. They're already collecting this data and acting on it. I think this data is important in terms of trying to improve performance. I think the challenge is tied to what we were saying with some of the other asset classes. The data just isn't available right now. If you're a landlord of a retail mall or a landlord of an industrial building, there's a good chance you're not getting the data right now on the energy consumption that is happening in that building because the tenants are billed directly by the utilities.

For our member organizations, the real desire is that if this comes through and it's required, they just don't want it to be a burden that they have to chase all these tenants, who have no real interest to share this data. If the landlords are required to share it, they would like it to be part

and parcel of this act that the utilities have to provide this data in aggregate to the landlord, and that would reduce the administrative burden.

Mr. Bala Gnanam: If I may continue on that also, related to a question that was before us: In addition to that, I think the challenge is also tackling the class B and class D type buildings, because class A buildings are already ahead of the curve and they have no objection to meeting this requirement. But where you're going to find the challenge is: How do you reach those class B and class C buildings that are pretty much resourced-strapped?

What we're suggesting is, working through organizations like BOMA Toronto that have that direct connection with the end-users, to be able to reach out and actually promote conservation. We've done that before, through the BOMA CDM Program, if you remember that. This is the predecessor to the current saveONenergy program. We gave away close to \$25 million in incentives and turned it around into a \$190-million investment. So that's a great success.

We have the infrastructure; we have the knowledge; we have the skills. Work with us, and we're here to make sure that the outcome is amicable to everyone and successful.

Mr. Jim McDonell: I guess the concern is, I've seen too many different programs or fields where people spend hours and weeks and literally months collecting data, especially in the agricultural field. And what does it provide at the end of the day? That's a worry. You want to make sure that if you're collecting data, you want to be competitive, not only in Ontario but amongst the market around your competitors, who may not reside here. You want to make sure that if you're gathering information, it's usable and has some benefit versus just more information that gets stored on a disc somewhere but is never accessed. You're concerned about that. There are certain points and levels of technology we can use, but in some of the older buildings that have been around for 20 or 30 years, it's not easy to incorporate some of those technologies, nor is it cost-efficient.

Mr. Adrien Deveau: The amazing thing that we've seen is that older buildings aren't necessarily at a disadvantage in terms of the efficiency of new buildings. That's part of the power of what the data ends up revealing. If we are able to get to a point where we can normalize that performance so that we're looking at apples to apples, amazingly, many of the best-performing buildings are older buildings.

We share your concern that if this becomes really onerous for the landlords to get this data that they don't actually have—that is a big concern of ours. But as long as it's part and parcel of the bill that the data is going to be readily accessible, that the landlords don't have to spend undue amounts of time to get the data, I think this does put us on a path that allows performance improvements. Right now, that is one of the problems. As you look at a building without understanding, you can see—maybe you have five buildings and one of them uses way

more energy, but that's the building where the tenants aren't sub-metered, and it is air-conditioned. You don't have a way to know whether that building should have that high energy use or whether it's abnormally high. But if we can get to the point that the office sector has—it's an eye-opener for buildings when they actually get the data collected and find out, on the zero to 100 Energy Star scale, that they're at 20, and they thought they were a good-performing building.

The Chair (Mr. Grant Crack): Thank you very much. I appreciate it. I wish we had more time.

Mr. Tabuns.

Mr. Peter Tabuns: Thank you very much for presenting here today. Can you give me a sense of the scale of the energy retrofit market in Toronto at this point? Do you have a sense of the number of dollars that are being spent on an annual basis to cut energy use?

Mr. Adrien Deveau: I don't know that. Do you know that?

Mr. Bala Gnanam: No, sorry. I don't.

Mr. Peter Tabuns: Is it a major part of the business practice of your members?

Mr. Adrien Deveau: I think absolutely. Yes.

Mr. Bala Gnanam: Energy comes to about 30% of our operating budget, so it is—

Mr. Peter Tabuns: So it is big.

Mr. Bala Gnanam: Absolutely.

Mr. Peter Tabuns: It's very big. Do you see the potential, when this data is available, for significant further investment by the building operators when they see how they compare to others?

Mr. Adrien Deveau: I personally think it could drive that, certainly. We've seen that in the class A buildings downtown. We've seen that kind of change. If these same types of tools were to be—again, years from now; not months from now—available for different asset classes, I think you could absolutely see the same type of impact.

Mr. Bala Gnanam: I would also like to add that retrofits are only part of the solution. I think the province also needs to invest a lot in education and not in market transformation, because just simply retrofitting a building and not addressing behavioural elements—it becomes a stranded asset. It doesn't take a lot for a high-performing building to deteriorate if it's not being operated properly. That comes down to operator training, so we encourage the ministries to look into heavily investing in the education side as well, while at the same time taking all efforts to transfer the market from where we are today.

Mr. Peter Tabuns: Okay. I don't have further questions. Thank you very much.

Mr. Adrien Deveau: Thank you.

The Chair (Mr. Grant Crack): Thank you to both of you gentlemen for coming before the committee this afternoon. I appreciate it.

ONTARIO FEDERATION OF AGRICULTURE

The Chair (Mr. Grant Crack): Next on the agenda, from the Ontario Federation of Agriculture, we have the

president, Mr. Don McCabe, and also farm policy researcher Mr. Ian Nokes with us this afternoon. We welcome you two gentlemen.

Mr. Ian Nokes: Thank you.

The Chair (Mr. Grant Crack): You have 10 minutes. Welcome, Mr. President.

Mr. Don McCabe: Thank you, Mr. Chairman. The Ontario Federation of Agriculture is pleased to be in attendance today before the committee on this particular bill, Bill 135. For the record, my name is Don McCabe. I currently serve as the president. Ian Nokes, the principal researcher in the area of energy, is accompanying me here today.

Two things that stand out in this act for the attention of the OFA is the issue of energy conservation and long-term energy planning. First of all, we need to set this in the context of the agri-food industry. Since it's your number one industry here in Ontario, generating \$34 billion in GDP and employing 740,000 people, we feel very clearly, with good cause, that feeding families is the first priority for our 36,000 farmer members. For everybody in the room here, we also feel that you have a direct connection to this industry because everybody here eats. Local food is kind of important, and fortunately some of those other people out there will actually also have a job in this industry that helps pay for their food.

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The biggest issue, coming back to this bill again, then, is the fact that the agri-food sector has to have competitively priced energy. Prudent investments and smart, efficient regulations are critically important and will enable our agri-food sector to contribute even more to the Ontario economy.

With respect to Bill 135, we ask the committee to consider a motion—and I stress that that's staff wording, to "consider" a motion; I'm here to friggling demand a motion—to amend this bill to exempt agricultural buildings from the large building reporting requirements and to ensure stakeholder input remains a key part of the long-term energy plan consultation process.

To build on those points, there are a number of reasons why we make the request of exempting agricultural buildings from the large building reporting requirements:

(1) This would not deter from achieving the objectives under the reporting initiative. It is estimated that we have only 400 agriculture buildings that meet the 50,000-square-foot threshold where these reporting requirements would begin to apply, and these large agricultural buildings are quite unique.

(2) Benchmarking estimates derived from the reported statistics would be more robust with these unique agricultural buildings excluded because these buildings are mostly greenhouses where the atypical energy requirements would detract from the efforts to develop meaningful benchmarking estimates. Agricultural energy profiles are inherently different than warehouse, manufacturing or retail sectors. Therefore, including agricultural buildings would fly in the face of Sesame Street,

where one is not like the others, and this would skew your benchmarking results.

(3) Public disclosure of proprietary business information poses a significant risk to agricultural exports. Energy is a significant contributor to food production costs. Releasing cost figures puts Canadian agricultural exporters at risk of US anti-dumping investigations. Anti-dumping is pursued when US producers believe exported products are sold below cost. The release of any cost data would prompt such a charge. The expense farmers would incur to defend themselves during such an investigation would be significant.

(4) The collection of the energy reporting data that Bill 135 would enable may prove useful when measuring Ontario's performance towards our greenhouse gas reduction targets. However, agriculture is not a regulated sector under the cap-and-trade carbon pricing mechanism being designed for Ontario. Therefore, exempting agricultural buildings from the large building reporting requirements will not impact Ontario's performance measurement and would enhance an opportunity for protocol development for a sector that is not under the cap-and-trade regulation, and therefore lead to the opportunities of protocol development in that area.

(5) We appreciate that mandatory reporting may lead to voluntary conservation and demand management efforts on the part of business owners who were previously unaware of their building's energy usage. Given energy is a significant contributor to greenhouse food production, we know farm building owners are aware of their energy costs. This extends to the poultry industry, it extends to the swine production industry and it extends into various other industries. Depending on how this definition of square feet comes up, you could pull those others in. In fact, best management practices have been developed and implemented related to energy conservation and demand management, and statistics show the agriculture sector, in general, has far exceeded the norm in terms of already adopting conservation measures. Climate impacts agriculture more than any other industry, and climate change poses a real threat to food production and our food security. Our members are already focused on conservation and demand management. When you buy at retail and sell at wholesale and pay the trucking both ways, you're looking for cost reduction.

The OFA position remains that exempting farm buildings from mandatory reporting is the best policy option. Simply put, the costs of forcing 400 farm properties to report far outweigh the benefits.

The second area: Ensuring that stakeholder input remains a key part of the long-term energy plan consultation process.

Bill 135 effectively removes stakeholder input from the long-term energy plan consultation process and transfers any remaining independent objectivity from the OEB and the IESO to the Ministry of Energy. OFA remains concerned that focusing control within the ministry marks a critical watershed for governance and raises concern whether any public concerns with Bill 135 will be considered.

Ian and I will be pleased to address any questions of the standing committee at this time. Thank you for the opportunity.

The Chair (Mr. Grant Crack): Thank you, Mr. President. We shall start the line of questioning from the official opposition. Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Don and Ian, for joining us today. I appreciate your presentation, and I must say that I share your concerns.

When this bill was being drafted, prior to its being tabled in the House, were you people consulted on this piece of legislation and how it might impact you?

Mr. Don McCabe: I was actually made aware of this legislation through a colleague; it was coming through the city of Toronto at that time. Then, I believe the Ministry of Energy picked up the work from the city of Toronto and chose to go to the province. Some overtures have been made to address some of our concerns, but we're here today to hammer the spike home.

Mr. John Yakabuski: But prior to its drafting, were you consulted, or is this since?

Mr. Don McCabe: No.

Mr. John Yakabuski: No. Okay. So since it's happened, you've had some conversations.

Mr. Don McCabe: Yes.

Mr. John Yakabuski: Have they appeared to be amenable to some of your suggestions?

Mr. Don McCabe: Not in writing.

Mr. John Yakabuski: Okay. Look: You employ 740,000 people in the province of Ontario; you should have a seat at the table.

I appreciate the logic of your requests. With all due respect, barns are not places where people live. They're not the easiest buildings to make energy efficient, from the point of view of insulation or other types of things. They're a working model—opened and closed all the time. There's really not a lot to be gained by—what did you say, 400?

Mr. Don McCabe: Four hundred buildings, and we're referring to—

Mr. John Yakabuski: Four hundred buildings that would qualify in the whole province of Ontario under this act. We recognize that, and we appreciate you bringing that to the committee.

I'm also concerned about the planning aspect, and I'll turn it over to my colleague Mr. McDonell.

Mr. Jim McDonell: We see this, again, as just the work to gather this information; I believe the average farmer is already up to over a month of collection of data now. These are single-input buildings typically, and nobody is more concerned with the price of energy, especially under the escalating costs under this government, because your energy costs are now much higher than who you're competing with. Costs are a great reason to have people review their energy and look for savings. Generating a whole bunch of information doesn't do a lot more than what you have today. Any comment on that?

Mr. Don McCabe: I would say that, as we see it now, with the approvals that have gone through the Ontario

Energy Board and by the time everything is enacted, electricity in downtown Toronto will be at 12 cents a kilowatt; in rural Ontario, it will be at 20. At 13, I can go to Princess Auto, get a real nice diesel generator, make sure it stays full and go off the grid. That's to nobody's benefit, because that's going to leave costs behind and other measures.

It also does not induce opportunities for us to make further investments in other ways of looking at conservation and connecting things, like the dire need for natural gas infrastructure in this province. We can generate electrons or we can put that natural gas back in the pipe and move it down the road for heating. That would also eliminate some other electrical costs for those who are using high-priced hydro to stay warm.

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At the end of the day, we definitively need to see some kind of bending in this curve and some kind of realization that rural Ontario essentially paid for 16% of Hydro One's infrastructure through different measures, and we need to get back to the basics of squaring the books.

Mr. Jim McDonell: Good point—

The Chair (Mr. Grant Crack): Thank you very much.

Interjection.

Mr. John Yakabuski: Thank you very much.

The Chair (Mr. Grant Crack): I appreciate it. I gave you an extra minute, gentlemen.

Mr. Tabuns.

Mr. Peter Tabuns: Don, Ian, thank you very much for being here today.

I was going to go to the policy questions. I want to go to this item that you just mentioned. At 13 cents a kilowatt hour, it's cost-effective to go to a diesel generator?

Mr. Don McCabe: That's the math we've done.

Mr. Peter Tabuns: Boy, that changes a lot of things, doesn't it? And your projection is 20 cents a kilowatt hour, delivered, in rural Ontario?

Mr. Don McCabe: Yes, sir.

Mr. Peter Tabuns: As of when?

Mr. Don McCabe: When all the current things that are in place, and they get done with all the soft increases that have currently been approved—I think we're looking at 2017 or 2018, by the time all that's in place.

Mr. Peter Tabuns: That's interesting.

Going back to the long-term energy plan and consultation process, what's your worry if, effectively, the OEB hearings are cut out of this process?

Mr. Don McCabe: I'm going to back in history for a few moments. The Ontario Federation of Agriculture was a supporter of the Green Energy Act, to allow diversification of farm income in rural Ontario through generating electrons. Through that exercise, we've seen biomass pretty well ignored in that process because the price wasn't high enough to invoke that particular opportunity. So the issue of green energy is not a large driver in the overall energy profile of this province, but it has certainly

allowed a great number of our farmer members to participate through microFIT or other methodologies.

The issue of having the keeper of the secret chalice and the promoter of the actual plan being one and the same doesn't really work too well, unless you're a benevolent dictatorship. So I'm not terribly impressed.

Mr. Peter Tabuns: There's a scarcity.

Do you think that this plan would allow us to avoid things like the gas plant scandal?

Mr. Don McCabe: That's a good opportunity for a long book, but I'm not prepared to offer an opinion today until I write it.

Mr. Peter Tabuns: Thank you for your time.

The Chair (Mr. Grant Crack): We'll move to the government. Mr. Delaney.

Mr. Bob Delaney: I read your brief. Outside the agricultural building sector, do you believe that the large building energy- and water-reporting benchmarking—in other words, not including your sector—would be a useful tool to better manage energy usage?

Mr. Don McCabe: I'm here to consult on behalf of 36,000 farmer members and not necessarily stick my nose into other people's business. I can offer that I've had the opportunity to serve on the Ministry of the Environment and Climate Change committee, and we see buildings and transportation as two large sources of greenhouse gas emissions. Data is important, and I'm sure that those folks will have data to figure out how to minimize their impacts as they move forward. I would prefer to think that we would allow cap-and-trade to be able to illustrate its value in bringing protocols forward that would allow all sectors to harness innovation to deal with their own in-house concerns.

Again, I'm not speaking on behalf of those sectors, but I would prefer to see us do this through a more voluntary approach than a regulated one.

Mr. Bob Delaney: Let's go to your sector, then. Which is the larger energy driver in agricultural buildings: the efficiency of the building itself or the processes running within the building?

Mr. Don McCabe: Yes.

Laughter.

Mr. Don McCabe: The short answer is yes, and I'm not trying to be sarcastic, sir.

Our industry is tremendously diverse. The efficiency of dairy operations and the time of using silo unloaders is moving to bunkers and other methodologies to minimize cost and increase moving that feed efficiency across the board, so it would require a much more detailed definition of efficiencies and whatever else. At the end of the day, the reality is, we see increasing costs; we do not see that necessarily in our competition from across the crick in the US, and we cannot afford, in any way, shape or form, to give them an opportunity to go to a court of law and cause us grief.

Mr. Bob Delaney: Is it common practice for building owners in the agricultural sector to track their energy use?

Mr. Don McCabe: Yes, sir, because the reality is that the larger you get, the more efficiencies you're looking to

deal with. As I mentioned earlier and repeat quite openly here again, we buy at retail, we sell it wholesale, we don't get to set the price and Walmart wants to, and they're going to shove things down through sustainability chains that include energy, that include greenhouse gas matrices, that include water, that include a lot of definitions that are, frankly, stupid.

Mr. Bob Delaney: You've identified the sector of buildings that number some 400 across Ontario. Do agricultural building owners of any size track data, either through OFA or any other entity, on a common measurement basis to enable farmers or building owners to benchmark the buildings and/or the processes within them?

Mr. Don McCabe: The OFA does not collect any data from our members directly because they're independent business people who will collect the data that they require for their business. When you have a province that is as rich and as diverse as ours, with 200 different commodities, energy is a common theme on the way through, but the issue for, say, animal production—you've got horses and cattle that need to be inside very little and outside a lot, especially even in this weather, whereas smaller animals—with a baby chick that doesn't have feathers until 10 days old, you need to keep it as warm as possible. So we look at each commodity as doing its own job as efficiently as possible to maintain the cheapest food basket in the world, and you've got it.

The Chair (Mr. Grant Crack): Thank you, gentlemen, for coming this afternoon. We are going to take a five-or-so-minute break, as our next delegation is not here. We have four left. So enjoy your five or so minutes.

The committee recessed from 1548 to 1557.

WATAYNIKANEYAP POWER

The Chair (Mr. Grant Crack): Okay, I'll call the meeting back to order. I hope everyone enjoyed their break. We're back on schedule, almost right on time.

I'd like to welcome Wataynikaneyap Power. We have Margaret Kenequanash, the chair, and Mr. Scott Hawkes, who is president and secretary. If there is anyone else who would like to come forward, feel free.

Welcome, Ms. Kenequanash. You have 10 minutes this time instead of five, and we look forward to your presentation. Welcome.

Ms. Margaret Kenequanash: Thank you. I will sit this way so I can see. When it's red, I guess it means I can speak?

Ms. Daiene Vernile: You're on.

Ms. Margaret Kenequanash: I'm on now? Okay.

Good afternoon, and thank you for providing us the opportunity to present to you today. My name is Margaret Kenequanash and I am chair of Wataynikaneyap Power.

I was pleased to appear to the committee a few months ago on Bill 112. Again, we are pleased to be back before you, to support Bill 135 and the tools it provides to

enable the provincial government to expedite essential transmission projects.

Joining me is Scott Hawkes. He is a board director of Wataynikaneyap Power, and vice-president, corporate services; general counsel and corporate secretary with FortisOntario.

Together with our partners, FortisOntario and RES Canada, Wataynikaneyap—which means “line that brings light” in Anishiniimowin, named by our elders—is already a groundbreaking achievement. Never before have 20 First Nations come together under one company with private sector partners, on the premise of First Nations leadership and 100% First Nations ownership.

The goal of Wataynikaneyap Power is to connect remote First Nation communities in northwest Ontario that are presently on dirty, antiquated and unreliable diesel generation. Achieving grid connection for our communities should be a no-brainer in a 21st-century society, but over the years we have been constrained by a lack of consensus, lack of focus and too much red tape.

Bill 135 will help to change that. Under section 7 of the bill, the Minister of Energy would be given the authority to direct the IESO to consult with aboriginal and other peoples on electricity projects. That is a good thing. Too often, our land has been used against our wishes or without the proper involvement of our First Nations. Decisions made by parties far removed from our homelands have not only taken away economic opportunity that is our inheritance, but those decisions often fail to account for how our communities will be affected by infrastructure development—who will benefit and how our peoples’ lives will change as a result.

Bill 135 will also, under section 28.6.1, enable the Minister of Energy, upon approval by cabinet, to direct the IESO “to take such steps as are specified in the directive relating to the construction, expansion or reinforcement of transmission systems.” This is very important. Transmission projects can be complicated exercises, with multiple layers of approvals required. Enabling the government to expedite transmission projects is essential.

For our communities, the lack of suitable power supply in remote First Nations is a crisis. In the spring of last year, there were 10 remote First Nations communities in Ontario that were at capacity and six independent power authorities on connection restrictions as a result of diesel generators approaching capacity. The situation is even worse this year, with mild temperatures reducing ice roads that are needed to transport in fuel for our electricity systems. With these restrictions in place, our communities cannot connect new homes or develop new community infrastructure or pursue economic development opportunities. As a result, the power supply crisis is exacerbating already poor living conditions and compromising the basic need for shelter, water and food for the community members, particularly elderly and children.

While there are some diesel generation upgrade projects in development, these projects are extremely expen-

sive and usually take years of planning and approvals. Even then, continued use of diesel generation to power First Nations communities is financially unsustainable, environmentally risky and inadequate to meet our communities’ needs. Expediting transmission solutions to address these challenges is essential. Section 28 of Bill 135 will help with this.

We also appreciate that focus is needed when it comes to transmission projects affecting a large number of communities. Twenty First Nations coming together under one company to seize the opportunity to improve the lives of our families is an unprecedented achievement. Section 97.2 of the bill will help to provide the clarity needed on the development of transmission facilities—but focusing efforts of the IESO and the Ontario Energy Board on transmitters moving forward on key transmission projects.

We appreciate that the bill gives the government broad authority to mandate the planning and procurement of transmission facilities. We support this. But we also believe that projects benefiting primarily First Nations communities should be guided by those First Nations. In our case, the communities that would benefit by getting off of diesel generation should be directly involved in the planning, development and ownership of these facilities. This is non-negotiable.

Speaking as an indigenous person, the support and mandate of this project is premised on ownership. The overall vision of our indigenous peoples to own a major infrastructure such as Wataynikaneyap Power is a catalyst to control our destiny and change the landscape of how we do business in the north. No major development will take place without meaningful involvement and consent of our people.

Wataynikaneyap intends to develop, own and operate new transmission facilities that will connect remote First Nations communities to the grid. Earlier this year, we obtained a transmission licence to do this from the Ontario Energy Board. Now is the time for this project to move forward.

First Nations are no longer passive parties. With our partners, we believe that real progress can be made in the near term, should Bill 135 pass—when Bill 135 passes—and provided that the province continues to support the transmission connecting our First Nations communities.

With that conclusion, I will now ask my partner, Scott, to make a few comments.

Mr. Scott Hawkes: Thank you, Margaret. Good afternoon. My name is Scott Hawkes. I am the vice-president of FortisOntario and also president and secretary of Wataynikaneyap Power.

FortisOntario is very excited to be a partner, along with RES Canada, with the 20 First Nations that are part of Wataynikaneyap Power. Just for clarification, Wataynikaneyap Power is majority-owned by First Nations. Our company is proud to have been involved in hydro-electric generation, distribution and transmission of electricity in Ontario for over 100 years. The work that Margaret and her colleagues have achieved to date is indeed incredible, and we are collectively excited at the

opportunities presented to modernize and significantly improve power in northern Ontario.

Wataynikaneyap's goal is to provide reliable and accessible power to residents and businesses in northwest Ontario. But it is also to help tap into the tremendous natural resource potential of the far north. The approach to the project is in two phases—one project, two phases. Phase 1: a new 300-kilometre, 230 kV transmission line to Pickle Lake. The existing line is more than 70 years old and is prone to frequent and long-lasting outages. Phase 2: 1,500 kilometres of 115 kV and lower voltage transmission lines to connect 16 First Nations north of Pickle Lake and Red Lake.

According to PricewaterhouseCoopers, building and operating transmission to these communities is expected to save \$1 billion, compared to continued diesel generation over a 30-year period. In addition, the Wataynikaneyap Transmission Project is estimated to create 769 to 1,000 jobs during construction and over \$900 million in social value in the form of things like improved health and reduced CO₂ emissions.

The connection of remote communities has been identified as a priority in Ontario's Long-Term Energy Plan, strongly supported by the fact that this project would in turn lead to the connection of remote communities. It only makes sense that First Nations communities own, control and benefit from development in their homelands.

Clearly, this is a major undertaking, but one with immeasurable benefits. Passing Bill 135 will help to achieve this outcome by hopefully streamlining the process of moving forward with this project.

In closing, we wish to thank you again for the opportunity to present to the committee and voice our support for the bill's passage. We're happy to answer any questions you may have.

The Chair (Mr. Grant Crack): Thank you very much. We shall start with the government side. Ms. Vernile.

Ms. Daiene Vernile: Thank you very much, Scott and Margaret, for coming here today and telling us about your lived experiences of generating power, mainly with diesel, in the north. Those of us who live in the south flick on the lights or turn on the TV set, and I think most people don't give much thought to how that power is being generated. But in the north, you're doing this with diesel.

Can you give us an understanding of what it's like to live with that kind of power, that that's what you depend on?

Ms. Margaret Kenequanash: With a diesel generator that is at capacity, it means there are frequent outages, or if there are a number of diesel generators at capacity—some people operate with 250, 400, maybe one megawatt. So this creates a problem, depending on the time or the length of the power outage, and depending on the season, if it's wintertime or not.

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In a community such as this, housing becomes an issue. The daily food, shelter and water become an issue

because, if there's not enough power within the community, that gets compromised, especially for the elderly and the children. In the big picture, our communities that are at capacity have stunted growth. They cannot move forward on any economic or business opportunities that they would like to pursue.

One community where I can give you an example is Kasabonika Lake First Nation, where they could not build homes because of their diesel generators being at capacity. It meant that there were 42 families without homes. Some of those families had to live with each other in houses, and it's still causing a lot of problems for the community.

So it comes down to the basic need of each First Nation. Like I said, in the big picture, it affects the community infrastructure and community development that needs to take place. It takes years to plan. We started planning for this diesel generator to be replaced in Kasabonika in 2005, that I can remember, even prior to that. They recently got an approval, but that's only an interim measure, again. Those diesel generators probably have a lifespan of anywhere from 10 years plus, so they have to continue to be replaced.

Ms. Daiene Vernile: And what are you paying for the diesel, Margaret? What are you paying per kilowatt hour?

Ms. Margaret Kenequanash: For the independent power authorities, the ones that are not regulated, they are paying 25 cents per kilowatt, which is three times more than the regulated entities that are being looked after by Hydro One Remote Communities Inc. They pay the rest. That is regulated through the Ontario Energy Board.

Ms. Daiene Vernile: You say that you brought together 20 First Nations groups, and that's very impressive. How many people is that?

Ms. Margaret Kenequanash: Oh, boy. I think it's about 20,000 people. In the community?

Ms. Daiene Vernile: Yes.

Ms. Margaret Kenequanash: Yes. And I think that the population of each First Nation will range from 63 people in one community to about—the biggest one would be about 3,000 in one community.

Ms. Daiene Vernile: So if we were to hit the fast-forward button, and Bill 135 goes through, and you have the power that you're looking for, how do you see it transforming your communities?

Ms. Margaret Kenequanash: Well, I'm hoping that it will streamline the process because we've been at this for eight years. We've been studying this project to death. I'm hoping that certain key decisions and clear decisions will be made, that we become the proponent to move this project forward because our communities cannot wait another 10 years to connect their home communities, simply because of the situation that we're in. Otherwise, we're going to hit a crisis point and it's going to be a disaster for Ontario.

Ms. Daiene Vernile: Scott, can I ask you how you see electrical power—

The Chair (Mr. Grant Crack): Sorry.

Ms. Daiene Vernile: We'll talk later.

The Chair (Mr. Grant Crack): I gave you about a minute-and-a-bit leniency. We'll move to the official opposition. Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Margaret and Scott, for joining us today from Wataynikaneyap—how do you say that?

Ms. Margaret Kenequanash: Wataynikaneyap.

Mr. John Yakabuski: Sounds good.

I'm totally in agreement about the need for First Nations to take ownership of their needs and be a part of the process and be fully integrated into the decisions that are made affecting them.

But I have to ask: Why the necessity to have the minister have the ultimate power? Do we not trust the experts at the IESO and the OEB to be able to make decisions that also support the need of First Nations to be fully integrated into those decisions? Why do we need to take the step of giving the minister the ability to ignore everything that has been detailed to him or her by the experts? Why do we need that?

Your problems could be solved by decisions, whether the minister has that pen or not. In fact, the process of building the line to Pickle Lake and then the feeder lines off to the 20 First Nations is already in play. I'm just questioning as to why we need, in Bill 135, that ultimate power in the hands of the minister, and to take it away from the experts who actually understand the electricity sector.

Ms. Margaret Kenequanash: I don't think it's going to take away from the electricity sector. The way I understand it—I've had a huge learning curve in understanding the very complex electricity system within Ontario. I've been looking at the various projects that have been recently approved by the government of Ontario, particularly the east-west tie. If we're going to go through the same process as the east-west tie, this project is dead. Our communities cannot wait that long for decisions to be made.

The other thing that is really kind of outside-of-the-box thinking is 100% ownership of this major transmission project by First Nations. There may not be existing regulations that would allow for that right now, so in order for us to enable that to happen, that is something we would like to see, and we've been working with the government of Ontario to make sure that those considerations are given, because we've been given specific directions by our leadership in terms of why they agreed to partner together to pursue this project.

From a regulatory standpoint, I understand there is a designation process under the Ontario Energy Board, and like I say, the only example I can give you is the east-west tie, and I don't think that is going to work in our favour.

Scott could probably answer that more from a regulatory perspective.

Mr. Scott Hawkes: I see the bill as an analogy of having a ship and saying, "Head north," as giving direction to that particular ship, but there's 1,800 kilometres of

transmission line to be built. In terms of the cost recovery mechanisms, there's still regulation, and heavy regulation by the OEB in this regard. There is a fairly arduous task of applying for leave to construct, and during that process you will have to demonstrate what cost recovery mechanisms are in place for phase 1 and phase 2. We'll be referring to the transmission system code for determining cost responsibility. So I don't see those regulatory authorities having less influence, but I do see it streamlining the process and saying, "This is the ship that should head north."

The Chair (Mr. Grant Crack): Thank you very much. We appreciate that. We shall move to Mr. Tabuns from the third party.

Mr. Peter Tabuns: Ms. Kenequanash, Mr. Hawkes, thank you very much for appearing here this afternoon. Can you give me some sense of the scale of cost of this expansion of the system?

Ms. Margaret Kenequanash: The estimate we've been working with is \$1.1 billion. That is to refurbish the line up to Pickle Lake, which is about 300 kilometres, and another 1,500 kilometres of total—is that total?

Mr. Scott Hawkes: It's about 250—

Ms. Margaret Kenequanash: It's about \$1.1 billion for the whole thing.

Mr. Peter Tabuns: Okay.

Mr. Scott Hawkes: Those are pre-engineering costs. Those costs, as you get into the leave to construct, would have to be finalized and approved as you got your engineering finalized.

Mr. Peter Tabuns: Okay. It gives me some sense of the scale we're talking about. Just a ballpark; I know it's not down to the nickel.

Ms. Margaret Kenequanash: But when we did a business case to look at the existing diesel generators that the communities are currently on—if we continued with the status quo—the cost of continuing with the status quo would be about \$1.5 billion; perhaps more, with the various other factors and assumptions that we've looked at in the business case.

So, in the long run, this is a win-win situation, not only for the Ontario government because of the economic side of things and also the situations within our communities and community infrastructure development—all those things we have to take a look at—but also with the federal government, which needs to come onside with this project and which is coming onside with this project, because when an emergency kicks in for these communities, it will be the federal government that will have to look at how they are going to handle the situation. We've been working with them on this also to bring them to the fold.

Mr. Peter Tabuns: Okay. I don't have further questions.

The Chair (Mr. Grant Crack): Thanks to both of you for coming down and sharing your project with us. We appreciate it.

Ms. Margaret Kenequanash: Thank you.

Mr. Scott Hawkes: Thank you.

TORONTO ATMOSPHERIC FUND

The Chair (Mr. Grant Crack): Next on the agenda, from the Toronto Atmospheric Fund, we have Bryan Purcell, who is the director of policy and programs. Welcome, sir. You have 10 minutes to make your presentation, followed by three minutes of questioning from each of the parties.

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Mr. Bryan Purcell: Thank you, Mr. Chair. As mentioned, my name is Bryan Purcell. I'm the director of policy and programs at the Toronto Atmospheric Fund.

The city of Toronto and the province of Ontario established TAF in 1991 to focus on reducing greenhouse gas emissions and air pollution. We invest in urban solutions to climate change through loans and grants for innovative projects as well as through the development of policies and programs to support transformative change.

I'm here today to speak specifically on the proposed amendments to the Green Energy Act which are included in Bill 135. These amendments are intended to enable the development of an energy benchmarking policy for large buildings in Ontario.

We've been an active supporter of energy benchmarking as a best practice in the real estate industry for about 10 years. Over the past two years, we've done extensive research and consultation to explore the potential benefits of a municipal or province-wide benchmarking policy. We believe that an energy benchmarking policy offers significant environmental and economic benefits, and can provide a critical foundation to enable the city and the province to achieve their long-term climate change mitigation goals.

In cities like Toronto, about half of the greenhouse gas emissions arise from energy use in buildings. The majority of this is from energy used to heat buildings and hot water, and then the balance comes from all sorts of other things: lighting, ventilation, air conditioning and various end uses. Achieving Toronto's and Ontario's ambitious climate change goals will require dramatically improving the energy efficiency of our buildings. We're making some progress, but not nearly enough.

Here in Toronto—the context that I know best—the total energy used in our buildings today is about the same as it was in 1990. The combined effect of all the city's policies and programs and the utility programs and the federal and provincial efforts has been just enough to offset the impact of all the new buildings that have gone up in the city. This is a real achievement, considering the tremendous growth that we have experienced in Toronto and other parts of the province over those 25 years or so, but it highlights that achieving our long-term climate goals requires realizing deep reductions in that energy use even as we continue growing our population and economy and therefore our building stock.

So what is an energy benchmarking policy? Simply put, it's a policy that requires large buildings to track and report on energy use and greenhouse gas emissions. It applies to buildings of a particular size and type, and creates a database of comparable data that can be used to

track benchmark building performance and track the evolution of that performance over time.

Here in Ontario, we already have a successful benchmarking policy that applies to the broader public sector. It has been in place for some years. The proposed amendments would allow for the extension of that policy to other sectors, to be spelled out in future regulations.

Energy benchmarking policies is a powerful policy tool that has been successfully applied in jurisdictions around the world. We've seen a wave of this across North America recently, including in New York City, Boston, Philadelphia, Chicago, Atlanta, Seattle, San Francisco and then the entire states of Washington and California. So it's not a novel or a radical idea.

While most of these policies are a bit too new to have a real evaluation of their impacts, New York City's policy has been around for five years, approximately. A recent evaluation by the US Department of Energy of the policy's impact found that over its first four years, it contributed to achieving a cumulative total of \$267 million in energy cost savings, while helping to generate over 7,000 person-years of employment.

We've all heard the old adage that you can't manage what you don't measure. Benchmarking goes a bit beyond measurement to include comparison to other buildings. As one US real estate professional put it to me memorably, people play differently when someone starts keeping score. Simply providing building operators with reliable information about their performance relative to their peers has been demonstrated to stimulate significant improvements in performance over time. We've seen that with voluntary programs here in Ontario and around the world, and we've seen that in the early days of policies that have been rolled out in many jurisdictions.

Studies in Toronto and other cities show that the worst-performing buildings typically use about five times more energy per square foot than the best-performing buildings in that real estate class. You can imagine that when building owners and operators hear that their energy costs may be five times higher than their competitors, they're motivated to find out why and to take action to improve their performance.

Additionally, making energy performance data available strengthens market incentives as well for improvement in building performance. As building operators begin thinking more about how improving their energy performance and reducing their carbon footprint could improve their building valuation or help attract and retain high-quality tenants, it creates new market incentives that help us address the problem.

We've been exploring this policy with the city of Toronto for some time, and some of the research they've commissioned found that a benchmarking policy, just in the city of Toronto, had the potential to support emissions reductions of three million tonnes cumulatively over the next 20 years, making a meaningful contribution to our climate targets. The same research found potential for \$1.9 billion in cumulative energy savings over the same period, making the city a more affordable place to

live and operate a business. Finally, the policy was found to have the potential to support up to 10,000 person-years of employment cumulatively by 2035.

How does energy efficiency and benchmarking support job creation? There are three ways, to keep it simple. First, people are employed directly to plan and implement capital improvements and operational improvements in buildings, as people get exposed to their performance information and are motivated to take action. Second, these efficiency projects indirectly support a broader ecosystem of economic actors: manufacturers, distributors etc. Third, the dollars that were being wasted on energy and utilities are redirected towards more productive and labour-intensive sectors of the economy, supporting new jobs in various areas.

But while benchmarking policies can create substantial reductions in energy use and emissions in their own right, I feel that in the long term their greatest strength is as a foundation for the development of smarter policies and programs to help us address our climate change challenge. Over the next generation, we need to reduce the carbon footprint of our buildings by 80%. This is a monumental challenge and it's compounded by a lack of information about how the building stock performs currently and how that changes across time and space. Regionally, in different sectors of the economy, we don't have a clear picture at any level of government. So it truly is something like trying to drive with a blindfold as we try to move toward our long-term greenhouse gas reduction targets and the transformation to a low-carbon economy.

An energy benchmarking policy will create a comprehensive database of building energy use information that will be of critical use to policy-makers at all levels of government—municipal, provincial and federal—as well as utilities, researchers and other stakeholders. It will allow us to develop 21st-century conservation programs and policies which are evidence-based and address the real challenges of specific regions, real estate sectors and building types.

It will provide unprecedented ability to evaluate program and policy effectiveness over time so we can continually improve the way we respond to this problem based on real data. It will allow us to map energy data geographically at a neighbourhood scale to assess opportunities for district energy systems or other neighbourhood-scale sustainability solutions, which will become more important as we move along this journey to a low-carbon economy.

We've been working closely with the city over the past two years on research and stakeholder consultation on this type of policy, and when we became aware that the province was considering rolling out this type of policy at a province-wide level, staff at the city and the ministry quickly began collaborating on that stakeholder consultation. I want to say that the staff at the city and at the Ministry of Energy have done a tremendous job engaging and consulting with stakeholders from various sectors, including the real estate sector, but also utilities and many other sectors as well.

There were a number of public forums held in major cities around the province, and the overall response from stakeholders was quite positive; I was surprised at how positive it was. One key point that we heard, though, was that real estate stakeholders strongly preferred that a policy be implemented at the provincial level rather than at municipal levels, because many of them, of course, hold real estate holdings across municipal boundaries and they felt that they could gain most by a consistent policy that applied to their whole portfolio. That would make it simpler for them to manage compliance and make best use of the data,

We really encourage the province to move forward with that type of policy, and we're encouraged to see it as part of the package of legislative updates to the Green Energy Act that are part of Bill 135.

The Chair (Mr. Grant Crack): Very good, sir. Thank you very much. We shall start the line of questioning from the official opposition. Mr. McDonell.

Mr. Jim McDonell: Thank you for coming out today.

You've had a chance to review different programs in some of the larger cities like New York. Any recommendations, or does anybody have a better system than the others, that we'd have a chance to review what's going on and learn from them?

1630

Mr. Bryan Purcell: Yes, that's a great point. We have the benefit of being able to learn from the experiences of many other cities and states that have implemented this kind of policy. I think we have learned some critical lessons, looking at those experiences.

One of the first was to implement it in stages, starting with the largest buildings, which is something I know that the ministry staff has been considering. That allows us to make sure that we have the systems in place to collect and use the data properly, and also starting with a smaller subset of buildings that have really sophisticated management capability to comply, and then we can improve over time.

Another thing we've heard was that we need a grace year. We learned from the other jurisdictions where the data is held privately and not shared broadly for the first year after compliance. That gives building owners a chance to address their performance if they wish to, and also to screen out any bad data that might be in the system.

We heard a lot, too, about the need for various data quality controls like periodic auditing of a sample of the buildings or data verification to make sure that we're getting good data.

The biggest thing that I think we learned was that this works best when we can—at least eventually—achieve automated data uploading directly from the utilities, at the customers' request, to the benchmarking program that is specified. That eliminates human error and makes compliance that much easier for building operators. I think there is some view in the ministry towards ensuring that we get there, within a few years, with our utility partners.

Mr. Jim McDonell: We've spent something over \$1 billion on these smart meters, but they seem, right now—again, last week, I had somebody come in. We're having huge issues on the ability for the utility to actually go in and see if the power is even shut off. It's not there.

Is there technology that we're looking at that would produce this information? Would it require replacing this somewhat expensive system that we've put in place?

Mr. Bryan Purcell: I'm pleased to say that implementing this won't require any changes to metering technology that's currently in place because it's not intended to collect real-time data. That's the big difference.

Any time you're looking for real-time data, you need sophisticated metering, and then you can run into some issues, of course. There's a learning curve. But this relies on the same data that is used for billing purposes by the utilities: the existing data from existing meters.

Generally speaking, there's no need for new metering technology. The one challenge we have is that some large buildings have multiple meters: for example, suite-metered condominium buildings. The province has no intent, I believe, to collect those meters individually. So utilities need a process to aggregate that data to a whole-building level, so that building owners can understand what their entire building uses, rather than individual meters within that building. That's critical.

We worked with Toronto Hydro to explore their ability to do that. They're pretty well there. I think that can be solved with the other utilities. It's basically a data-management exercise to aggregate buildings with the same address that have multiple meters to just one number so that that this data can be reported to the building owner without any privacy issues relating to individual accounts.

The Chair (Mr. Grant Crack): Thank you very much. I appreciate it. Mr. Tabuns?

Mr. Peter Tabuns: Mr. Purcell, thank you again for being here today. You mentioned earlier that there is an incentive factor that propels building owners to increase their efficiency performance when you have this kind of benchmarking. I think you mentioned this before, but just for clarity: What impact does that have on the percentage of energy consumption?

Mr. Bryan Purcell: Right; great question. We've seen a range of data. Generally speaking, the number that we find is that regular, ongoing participation in a benchmarking process generates about a 2%-to-3% annual improvement in energy performance. That varies a bit. We expect that, over time, it will taper off when people had been doing that for a long period of time. Then it becomes a way of maintaining that energy performance.

It's a small average improvement in performance, but the key is that it gets implemented across an entire building stock or a very large number of buildings, achieving pretty significant results.

Mr. Peter Tabuns: Okay. I don't have a further question. Thank you very much.

The Chair (Mr. Grant Crack): Thank you.
We'll go to the government. Ms. Vernile.

Ms. Daiene Vernile: Thanks very much, Bryan, for coming in and sharing this information with us. I think it's a very ambitious goal that the Toronto Atmospheric Fund has set a target of an 80% reduction in greenhouse gas emissions by 2050. You should be commended for that.

We talk about large buildings. We know that, in Ontario, large buildings are generating 19% of the greenhouse gas emissions measured in 2013.

I love your adage that, "You can't manage what you don't measure, and when you keep score, you play the game a lot differently."

We're asking building managers and owners to report and disclose voluntarily. Is that enough, to do it on a volunteer basis?

Mr. Bryan Purcell: That's a good question. We've looked at the success of voluntary programs around the world, and the general trend we've found is that they max out at about 15% to 20% of the building stock that they're targeting. That's the best that you can really hope to get through a voluntary program. So I think the intent, or at least the subject of consultation from the ministry and the city, has been to have a mandatory program. One of the reasons we think that is necessary is that we just don't think it's possible to get beyond about 15% to 20% of buildings participating through a voluntary program. They are also difficult to sustain over time because they're usually driven by non-profit organizations that cannot budget for that on a continuing basis.

Ms. Daiene Vernile: Building managers may say to you, "We like the idea of investing in our building and making it more energy efficient, but what's that going to cost?" But when you spend the money, you see the results later on, don't you?

Mr. Bryan Purcell: Absolutely. In several ways, we've been financing energy-efficiency projects and buildings in Toronto and beyond for many years. I've always earned a reasonable rate of return on those investments, along with benefits for the building owners we work with. Beyond that, with market conditions as they are today, every \$1 you can reduce utility costs in a commercial building—other things being equal—gives you \$10 to \$15 of additional building value. So even if building owners are thinking to sell their property before they realize a payback from energy savings, it's almost a stronger business case because of the improvement in asset value.

Ms. Daiene Vernile: This might be a difficult question, but, for a typical building, if you do invest to make it energy efficient, how quickly do you see your payback?

Mr. Bryan Purcell: It depends on the level of ambition that you take with the project. What we invest in usually is projects that try to achieve a 20% to 30% improvement in energy performance and reduction in greenhouse gas emissions. We usually see a payback in the range of seven to 10 years with that type of project.

Of course, buildings that target very specific things—low-hanging fruit—can achieve very quick paybacks,

sometimes within a year. Lighting, for example, has a very quick payback. For those who want to go very ambitious and get a 50% reduction, you're maybe looking at closer to a 15- or 20-year payback. So it really ranges on the level of ambition that you have with improving your performance.

Ms. Daiene Vernile: With a lot of buildings it's not so much that they don't want to do it, it's what the cost is, right?

Mr. Bryan Purcell: Absolutely. One of the reasons we've focused a lot on financing, to make sure that those who want to move forward can access funds from investors to implement these projects, is because, if they'll pay for themselves and the financing costs, then a lack of financial resources from the building owner shouldn't be a barrier to participating. We do financing ourselves, but we've also helped the city of Toronto to establish a financing program for the rental apartment sector that provides financing for energy retrofits that's linked to the property tax system. They repay through the property taxes over up to 20 years. We've worked to help other municipalities launch similar programs. We hope to see that happen.

Ms. Daiene Vernile: So save money and save the environment.

Mr. Bryan Purcell: Absolutely.

The Chair (Mr. Grant Crack): Thank you very much. We appreciate you, Mr. Purcell, coming before committee this afternoon and sharing your insight.

Mr. Bryan Purcell: My pleasure. Thank you for your time and attention.

The Chair (Mr. Grant Crack): You're welcome.

NISHNAWBE ASKI NATION

The Chair (Mr. Grant Crack): Next, from the Nishnawbe Aski Nation, we have Derek Fox, who's the Deputy Grand Chief, who I understand travelled from Thunder Bay, I believe. Is that correct, sir?

Deputy Grand Chief Derek Fox: Yes. I just got here, too. I was cutting it close.

The Chair (Mr. Grant Crack): I see that. We don't even give you time to breathe.

We welcome you here this afternoon. If you want to introduce the other gentleman with you, as well, when you start.

Mr. Don Huff: I'm Don Huff. I was the fill-in if he didn't get here within 10 minutes.

1640

Deputy Grand Chief Derek Fox: I thought you would know Don Huff. He's well known in these parts.

The Chair (Mr. Grant Crack): We welcome you both. You have 10 minutes.

Deputy Grand Chief Derek Fox: Good afternoon. My name is Derek Fox. I'm the deputy grand chief of Nishnawbe Aski Nation. I'm currently in charge of the energy portfolio, among other portfolio areas. I'm here today to present NAN's position on Bill 135. I've got some notes here that I've prepared. My understanding is

that Wataynikaneyap had presented earlier, so I'll try to keep my points out of conflict with my friend Margaret.

Just a bit of background on myself: I'm from Bearskin Lake First Nation, which is one of our First Nations in the remote north. Some of my background is in law—I'm a practising lawyer—but I'm also from the First Nation itself and I'm very connected to our land and our lakes, our rivers, our streams—our resources. I'm saying that I'm very passionate about our environment and this whole concept of energy.

I'm going to proceed with my speaking notes here. I'll start off with NAN's mandate. We represent 49 of the 133 First Nations in Ontario. Our territory covers two thirds of Ontario's geography, from the Manitoba border to the James Bay coast. Thirty-two of our 49 communities are remote. They do not have road access and they are not connected to the grid. The majority are powered by expensive and high-risk diesel generation. The diesel fuel is either flown in or transported by ice road, with significant costs and environmental risk.

We talk about climate change. In our territory, it's real. The north is warming and ice roads are melting—winter roads. What was once a reliable lifeline is under direct threat. For example, the winter road was once a reliable infrastructure. I think it used to run anywhere from eight to 10 weeks. It's a lifeline. We bring our housing parts through. I think this year it's going to be about three to four weeks at the most. I think they just started using the winter road. I think it started before December and it would run to mid-March or the end of March. I think they just started using them, except, this past weekend, heavy transports couldn't use the roads. That's just an example.

With respect to energy, NAN's position is that the unique nature of our territory's remoteness justifies a separate negotiations table with the Ontario round table, as NAN First Nations and their energy groups' progress cannot be impeded by an all-Ontario approach.

NAN First Nations want to accelerate their energy initiatives. We cannot wait for an Ontario-wide process to kick-start. It is the position of NAN First Nations that they will own and operate energy infrastructure assets—Wataynikaneyap, for example. NAN First Nations can invite external companies to be their partners where appropriate.

Finally, NAN First Nations assert that Ontario must provide NAN and NAN First Nations with sufficient resources and core funding to work collaboratively in planning, developing, owning and operating their energy projects.

With respect to Bill 135, it must be stressed that NAN is unique in its demography and remoteness. As I said earlier, we've been impeded by an all-Ontario approach. We require the means for direct input in the regional component of Ontario's Long-Term Energy Plan. Accordingly, we require guaranteed core funding to provide and retain technical expertise.

Also, the revised role of the Minister of Energy as outlined in Bill 135 is an important acknowledgement that

decisions regarding energy in Ontario are not simply based upon technical assessments. Bill 135 is a clear recognition that energy has far-reaching political, economic, social and environmental impacts, all of which are critical to NAN and the 49 First Nations it represents.

Bill 135 clearly establishes the requirement to consult with the First Nations of NAN and, in acknowledging that First Nations must be consulted, that we must be an active participant and beneficiary of Ontario's energy industry.

Just a few points. Point 1, the revised role of the Minister of Energy: Placing the Minister of Energy at the centre of all major policy and program decisions regarding Ontario's electrical industry is recognition that these decisions have far-ranging impacts on Ontario communities and First Nations located within Ontario.

NAN respects the past efforts of the various agencies who have worked to provide a comprehensive technical assessment of Ontario's energy marketplace. The technical efforts of the agencies, however, have fallen short in addressing the broad socioeconomic and environmental concerns brought forward by NAN and its member First Nations.

NAN recognizes that technical information is a requirement. However, Bill 135 is a clear acknowledgment that the broader concerns can only be captured within a political context.

Point 2, consultation with First Nations: Bill 135 sets out the requirement for consultation with First Nations. The process as to how this requirement is to be fulfilled must be established. The consultation process for the long-term energy plan, regional planning initiatives by the IESO, and other energy-related initiatives are part of the discussion.

Overall, what must be considered is that NAN and its member First Nations are not simply to be consulted, merely providing input into the process. Due to the recognized political nature of energy, we must also be the authors of the plan for Ontario's energy future.

Point 3, active participant and funding: The consultation process must not be limited to planning considerations. It must encompass how NAN First Nations will be active participants—owners—of energy infrastructure projects and the delivery of energy programs.

Energy has wide-ranging impacts on NAN First Nations, from climate change to the impact of high electricity bills. The importance of energy projects goes well beyond that of providing an essential service. Energy is big business. It provides business opportunities for the utilization of NAN's resources. As with other resources, NAN First Nations must benefit.

In conclusion, in the simplest language possible, we want to be co-authors of a regional energy plan with the Ministry of Energy, and we require the resources to do so. We are asking for guaranteed multi-year funding to participate in the regional planning process.

Earlier this year, I sent a letter to the Minister of Energy requesting that we meet to discuss many of these issues. I look forward to having a productive discussion with him.

That ends my formal presentation. There are just a few points that I wanted to raise here.

NAN is requesting that, for additional clarity to the commitments made in respect to consultation, our two governments meet to formalize the process for:

—effective consultation and meaningful input by NAN First Nations into the long-term energy plan to ensure that NAN resources, specifically those related to generation, are effectively incorporated;

—clearly determining the lead role of NAN First Nations in the regional planning initiative. NAN's interests encompass the social, economic and environmental aspects of the planning process, which go well beyond the relatively simple technical planning aspects; and

—ensuring that any program or infrastructure development in NAN territory is undertaken by NAN First Nations, individually or collectively.

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Just to finish off, I want to give a real issue that I came across two weeks ago. In one of our remote communities of Sandy Lake, we had our school shut down for two days because of the winter roads. The diesel could not be delivered to run the school.

I talked about climate change. It may not be so real in Toronto or the south, but it's real in NAN, and it's affecting everything.

Meegwetch. Thank you.

The Chair (Mr. Grant Crack): Meegwetch. Yes, thank you. We'll start with the third party. Mr. Tabuns.

Mr. Peter Tabuns: Mr. Fox, thanks for making the time and the effort to come down here today. Can you outline for me how you see concretely this process of co-authoring regional energy, your electricity plans, between NAN and the Ministry of Energy?

Deputy Grand Chief Derek Fox: We have resolutions that outline NAN's mandate. One of those resolutions would start with a chiefs' committee on energy, a table. What NAN sees is this chiefs' committee giving the direction and working with whoever may be the Ontario government to actually start this process.

Mr. Peter Tabuns: You're thinking about an electricity planning process far beyond this line to Pickle Lake, and then the extension of lines to other communities. Is that correct?

Deputy Grand Chief Derek Fox: NAN supports all these energy developments. I think you're thinking of certain projects going on within NAN territory. Of course, NAN supports those.

Mr. Peter Tabuns: Yes.

Deputy Grand Chief Derek Fox: Yes, and of course, NAN supports those. We're just a bit different, although we work together. Yes, we support the energy projects going on within the NAN territory.

Mr. Peter Tabuns: Okay. Those are all my questions for today. Thank you very much.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. We shall move to the government. Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you, Deputy Grand Chief Fox, for coming down all this way to make your presentation. You are very enthusiastic about this, and I can tell, by the things that you've told us, how important this bill is to you. I would like to know what elements of this bill are most important to your communities that are part of NAN.

Interjection.

Deputy Grand Chief Derek Fox: My friend here says that regional planning is the most important point of the bill.

Ms. Ann Hoggarth: Quite often, when we're here in Toronto, where it is such an urban centre, we forget about some areas of the province where there are not that many people. For instance, I live in Barrie, which is just an hour and a half up the road. It used to be an hour. I'm considered, in my caucus, to be a rural community, which I think is quite funny.

When you come and tell us about your remote communities of Sandy Lake and Pickle Lake and those places—you're dealing with a whole different ballgame. I think your points have been listened to, and we'll take that back to the government. Thank you very much.

The Chair (Mr. Grant Crack): We shall move to the official opposition. Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Derek, for joining us today, and the effort you made to get here. You might have flown from Thunder Bay, but I'm sure there was a long trek getting to Thunder Bay before you embarked on your trip here.

I'm going to take basically the same route that I did with Wataynikaneyap Power. Earlier today, they had a similar presentation about the things that are important to them—

Deputy Grand Chief Derek Fox: I've got it right here, actually.

Mr. John Yakabuski: Pardon me?

Deputy Grand Chief Derek Fox: I've got it right here, yes.

Mr. John Yakabuski: Yes—with regard to the duty to consult, the requirement to consult First Nations, and we fully support that. You brought in the issue of funding, which is not an issue of the bill, but yes, if you're going to be part of the planning, you've got to have the funding to be able to participate in that. You can't do that without having some funding; we understand that.

But when it comes to the planning, I do have to ask about the section of the bill that gives the minister such unfettered powers. We've heard from other presenters today voicing great concern with that absolute power that would rest with the minister. I understand how the First Nations want to streamline the process and feel that this might be advantageous, but a minister who has absolute power can also make decisions that are not in your favour. Is that a fair point?

Deputy Grand Chief Derek Fox: Yes, of course.

Mr. John Yakabuski: So is it not more advantageous to have the energy professionals—the IESO, the OEB—determine how we expand and advance energy transmis-

sion in this province, to make sure that First Nations are not left out, as they have been for so long?

Deputy Grand Chief Derek Fox: I wouldn't say it's more advantageous. I think we support the minister having those powers, but it could go either way. With these groups of professionals, a whole host of professionals, that could also go against the First Nations.

Mr. John Yakabuski: Oh, I understand—

Deputy Grand Chief Derek Fox: Yes. So there's no clear answer as to what's more advantageous.

Mr. John Yakabuski: The only thing is, with that group of professionals, they have to be able to defend their decisions based on data and analysis, whereas the minister can make it—

Deputy Grand Chief Derek Fox: I would assume that the minister is being provided that data and analysis also.

Mr. John Yakabuski: Then don't you think he should be required to follow the recommendations of the data, as opposed to being able to completely ignore it?

Deputy Grand Chief Derek Fox: I sure hope he would not ignore it.

Mr. John Yakabuski: Okay. I appreciate your feedback. Let's hope that at the end of the day, whatever we get is in the best interests of everyone, and especially for you people up in the remote north, who don't have the same luxuries as we have down here.

The Chair (Mr. Grant Crack): Thank you, Deputy Grand Chief Fox—and Mr. Huff, is it, I believe? We welcomed you. Glad that you were able to make it down, Deputy Grand Chief. We thank you for your presentation this afternoon. Have a good afternoon.

SOCIETY OF ENERGY PROFESSIONALS

The Chair (Mr. Grant Crack): Last on the agenda, but highly important, we have the Society of Energy Professionals here with us. I believe we have the president, Mr. Scott Travers. Whichever seat you would like, sir. Usually it's the centre one; we put you at the centre of attention.

We welcome you this afternoon. You have 10 minutes to present to committee. The floor is yours.

Mr. Scott Travers: Thank you. Just let me get my clock. I'm Scott Travers, president of the Society of Energy Professionals.

The Society of Energy Professionals represents more than 7,000 professional employees who work throughout the Ontario electricity system for employers which include Ontario Power Generation, Hydro One, Bruce Power, the Ontario Independent Electricity System Operator, the Ontario Energy Board, Toronto Hydro and the Electrical Safety Authority. The members we represent work in a wide variety of occupations, such as engineering, economics, auditing, accounting, system planning, information systems management, as well as many other professional, administrative and associated occupations. On behalf of the society, I extend our gratitude to the standing committee to be able to be here today to provide feedback on Bill 135.

To be able to ensure that Ontario maintains the energy system's integrity over the span of decades requires a technical plan that emphasizes evidence-based planning, multi-stakeholder input and transparent decision-making. As history has shown, when we get the energy planning process right, Ontario's sizable investment in infrastructure pays dividends in Ontarians' quality of life, our environmental health and economic well-being. However, we also know that if the government fails to get planning issues right, the results can be very costly, resulting in wasted time, wasted effort and wasted public money.

1700

In 2004, the Liberal government brought into play Bill 100, the Electricity Restructuring Act, which, as the Honourable Dwight Duncan, then Minister of Energy, stated, was aimed at "concrete action to put the energy sector back on a solid footing after years of mismanagement and political interference by previous governments." My colleagues and I believed at that time, as we believe now, that the integrated power system planning regime instituted by the Liberal government through Bill 100 was sound, well designed and built on acknowledged best practices in electricity sector planning. In fact, we've been vocal on that position for several years now and, as you may be aware, we have spent considerable time at Queen's Park doing education and lobbying around the importance of evidence-based planning. We've been advocating that the government follow the currently legislated process.

The IPSP process allows government to exercise its rightful responsibility to set the goals and parameters for system planning that reflect the priorities of Ontarians with respect to important parameters such as reliability, cost, environmental sustainability, and economic and social impacts. Then, through robust public consultations and regulatory hearings, the IPSP capitalizes on the knowledge of system experts as well as industry and public stakeholders, generating a depoliticized plan which achieves the government's stated policy goals with a maximum of efficiency, cost-effectiveness and social licence.

The ultimate strength of the IPSP process lies in its use of the Ontario Energy Board hearing process to allow a full vetting of the plan in an open, transparent and participatory venue. It is natural and, in fact, desirable that complex and contested issues such as electricity system planning should attract competing visions, approaches and interests.

The open nature of the OEB processes allows industry stakeholders, consumer and ratepayer representatives, community and specific interest groups, as well as members of the general public, to make comment or participate as interveners. They may introduce their own evidence, seek to have plan proponents provide additional evidence, challenge evidence which has been presented by others, and make arguments based on evidence that's in the record. All of this happens in open proceedings and all of it becomes part of the public record.

These steps are essential to good planning and are completely lacking in the processes proposed under Bill 135. In fact, they've been lacking for several years now, which is what prompted the society to come to Queen's Park to speak on planning in the electricity sector.

It was also something that recently came to the attention of the Auditor General. The 2015 annual report of the Office of the Auditor General of Ontario included an in-depth review and audit of the electricity system planning process in Ontario. The Auditor General found that "over the last decade, this power system planning process has essentially broken down, and Ontario's energy system has not had a technical plan in place for the last 10 years. Operating outside the checks and balances of the legislated planning process, the Ministry of Energy has made a number of decisions about power generation that have resulted in significant costs to electricity consumers."

Moreover, the AG said of the current ad-hoc long-term planning process, which is essentially equivalent to the process being proposed in Bill 135: "We found that this plan was still not sufficient for addressing Ontario power system's needs and for protecting electricity consumers' interests."

Bill 135 seeks to make fundamental changes to the planning process, including eliminating the requirement for the IESO to develop an IPSP—or a technical plan, as the AG refers to it—vesting such planning authority in the Minister of Energy. At the same time, the Bill 135 approach would reduce the mandatory oversight role of the OEB to a simple review of the capital costs of implementation. The society believes that the proposed alterations to the planning process would severely hamper the political independence and effectiveness of the electricity system planning process and oversight in a way detrimental to the public good.

In essence, Bill 135 seeks to enshrine in legislation a planning process which has been found severely wanting. It is the opinion of the society that the effect of Bill 135, as written, is inherently incompatible with complying with system planning best practices and with the recommendation of the Auditor General's report with respect to the system planning process.

Bill 135 would amend the Electricity Act to give the Minister of Energy, rather than the IESO, the responsibility for developing a long-term energy plan. The IESO's role in developing the long-term energy plan would be to provide technical reports on the adequacy and reliability of electricity resources in respect of anticipated electricity supply, capacity, storage, reliability and demand. There is, however, no requirement that the technical reports consider different alternatives and include "cost/benefit analyses during the planning process to assess the potential impact of a decision on electricity consumers and the power system." These were recommendations made by the Auditor General. Under Bill 135, the minister will merely need to consider the technical reports in developing the long-term energy plan and is free to develop plans which are inconsistent with the objective technical data.

The mandate of the OEB with respect to the IPSP is to ensure that it conforms with stated goals of the government and is economically prudent and cost-effective. It performs this function by holding hearings which are open to participation from experts representing a wide variety of public stakeholder groups. Stakeholders are empowered to request clarification, interrogate and challenge questionable facts and assumptions, or introduce evidence of their own. The OEB currently has the ability, independent of the government, to refer a plan back to the IESO for revision if they deem that it fails to adhere to the government's publicly stated goals, if it is technically insufficient or if it fails to meet tests of economic prudence. In this way, the OEB hearings are the apolitical crucible in which the merits of a long-term system plan are tested. Removing the OEB from this role would mean that there would be no public forum or regulatory decision-making body to vet the technical and economic soundness of the energy plan.

The minister will also be empowered to issue directives to the IESO and to the Ontario Energy Board setting out requirements for the implementation of a long-term energy plan for each entity. The IESO and the OEB would then need to submit plans back to the Minister of Energy for approval. The role of both bodies is thus reduced to implementing the unilaterally developed, untested plan of the government of the day, be it Liberal, NDP or Conservative. In short, the proposed process lacks transparency, accountability and non-partisan oversight.

In conclusion, it is the opinion of the Society of Energy Professionals that the proposed planning process in Bill 135 is inferior to the current IPSP process as outlined in the legislation, and there is no evidence whatsoever to suggest that the IPSP process will not serve the people of Ontario well if it is followed.

Thank you, Mr. Chair.

The Chair (Mr. Grant Crack): Thank you very much for your presentation. We'll start with the official opposition. Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Scott, for joining us today.

It would seem, and not unexpectedly, coming from the professional side of the equation, that your concerns are with the second part of Bill 135. I just want to get your viewpoint on the economics. Clearly, it costs a lot more to deliver transmission to people where I live than it does in the city of Toronto, and the farther away you go, the economics become less viable. But that has never stopped them from putting power to much of Ontario.

However, in the case of First Nations, it's even broader. As Margaret said earlier, she represents, I believe, about 20,000 members of First Nations in 20 different First Nations communities, but the area is vast, and Mr. Fox's would even be more vast.

There must be some way that the economics can be justified based on the need, without the minister having to be able to have ultimate power and say, "It doesn't matter what the analysis is. We're doing it or we're not going to do it." There must be some judgment or latitude

available; otherwise, we would never have gotten power to half this province.

Even without that ministerial power, do you think it would be an impediment—would that be an impediment to getting power up to First Nations by building transmission as opposed to diesel generators?

Mr. Scott Travers: Thank you for the question, and, no, I don't think there would be an impediment in the IPSP process to that. As I said, a fundamental part of the IPSP process, at the very beginning of it, is that it is the role of the government, through the ministry, to set the broad policy parameters, so that would be where that would happen. They can outline the priorities and trade-offs that are appropriate to be made through the planning process. It's not purely technical and it's not a purely low-cost outcome that is anticipated from the plan, but in fact, it's meeting the objectives as set out in the most economic way.

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That's when they do it, at the front end against the objectives, and if the plan that is produced by the IESO doesn't meet the stated objectives, then the OEB actually has the authority to send it back to the IESO and say, "But you failed to meet the objective of providing reliable power to these regions, so you need to rework your plan."

Mr. John Yakabuski: Okay. Thank you very much. I appreciate that.

The Chair (Mr. Grant Crack): Mr. Tabuns?

Mr. Peter Tabuns: Scott, thank you very much for coming and presenting today. You've made a very strong argument in your presentation. What do you think the risk is to Ontario's electricity system should we move forward with what has been proposed in Bill 135?

Mr. Scott Travers: There's quite a bit of risk, actually. There's risk of failure to vet the plan against the objectives. In Bill 135, the problem would be that you still state objectives at the beginning, then you ask for technical input, but no one actually tests that the plan that ends up being produced is the most economic, reliable, efficient way to meet the objectives. There's no oversight. There's no testing of the plan.

There's also a loss of public licence, which is another very important part of running a robust, public, transparent process. There's a tremendous danger, actually, in delays and lack of support for a plan that is produced in isolation by a ministry, which could then lead to further delays in implementation of the plan. There are issues with whether or not the plan is the best way to achieve the objectives and whether or not, in fact, it's taking all the technical input into account.

Actually, an additional problem with the process under Bill 135 is that there's no public record of what input has been given to the ministry. There's no opportunity to vet that input, so stakeholders could be giving erroneous information to the ministry. There's no opportunity for other stakeholders to challenge the veracity of that information, nor do we know what the ministry does with the information. There's a potential danger that the ministry would use incorrect information from stake-

holders when putting together the plan, because there has never been an opportunity to see what the input is or to test its validity.

Again, these are all things that are covered under the IPSP process. The danger is that you'll have an ineffective way of meeting the objectives, possibly based on inappropriate information, and there's no public licence; because nothing is on the record, there's no transparency.

Mr. Peter Tabuns: Okay. Thank you very much. That's pretty thorough.

The Chair (Mr. Grant Crack): We shall move to the government. Mr. Delaney.

Mr. Bob Delaney: Thanks for coming in, Scott. I'd like to ask you a series of what I hope are clarification questions, just to make sure I understand what it is you're suggesting. As I go through the questions, we'll try to keep them as concise as possible.

Looking at the current Integrated Power System Plan, do you think it's just about right, too slow or too fast?

Mr. Scott Travers: I think it's just about right. It is a plan that looks about 20 to 30 years down the road with many billions of dollars of investment. The problem is that we've never actually finished the cycle. For clarification: The first time you do an IPSP process, it will take a great deal of time. Through the years, revisions will actually be much quicker.

Mr. Bob Delaney: Again, looking at the current IPSP process: Is it responsive or unresponsive?

Mr. Scott Travers: It's responsive.

Mr. Bob Delaney: Okay. In your opinion, is the IESO the proper institution for implementing policies set out in the long-term energy plan?

Mr. Scott Travers: Sorry, could I ask for some clarification on that?

Mr. Bob Delaney: Once the plan is complete, is the IESO the proper institution to implement those policies as set out in the plan?

Mr. Scott Travers: They would take steerage of—yes, they would.

Mr. Bob Delaney: Okay. What should be the role for the OEB in facilitating the implementation of the plan's objectives?

Mr. Scott Travers: The OEB would ensure that the plan, as produced, meets the objectives. The OEB would reject the plan and send it back for rework, if, based on all the evidence, it doesn't meet the objectives as set out by the ministry. Then, the ministry would direct the IESO

and other agencies to implement the plan. That could lead to things going back to the OEB through rate hearings, if that's what you're getting at.

Mr. Bob Delaney: In the 2013 long-term energy plan, in which I was involved—I know that that was the biggest effort and the largest consultation process in the ministry's history. Among the things that happened there, of course, were the posting of the discussion document on the Environmental Registry, 12 regional sessions, a lot of round table groups with stakeholders, open houses, 10 aboriginal sessions, and something like 7,800 questionnaire responses. Was there anything in there that was missing?

Mr. Scott Travers: Absolutely. For one thing, stakeholders never had the chance to challenge each other's input, to ask each other questions. There was no technical testing of the stakeholders' input, for example, as would be outlined through the IPSP process.

Mr. Bob Delaney: Okay. Bill 135, as written, would—how am I doing on time, Chair?

The Chair (Mr. Grant Crack): Last question.

Mr. Bob Delaney: Okay. Bill 135 would formalize the framework that was developed and tested in the last two long-term energy plans. What was your organization's experience in participating in the last two long-term energy plans and do you think there are some improvements in there?

Mr. Scott Travers: Our organization did participate through the stakeholder forums in the last two plans. I think there's tremendous room for improvement, and, as we stated, we don't believe the process actually met the standards. Certainly, the Auditor General agrees with us. Relative to an IPSP process, it lacked transparency, it lacked the ability to test the veracity of the input, and it lacked a test of the plan back to the objectives.

Mr. Bob Delaney: Okay. Thank you very much for your thoughts.

The Chair (Mr. Grant Crack): Thank you, Mr. Travers, for your input from the society this afternoon.

I'd like to thank all of those who presented this afternoon—groups and individuals—and thank the members of the committee for doing such great work on this particular bill. Thanks to the Clerk's office and Hansard and everybody.

Have a great evening. This meeting is adjourned.

The committee adjourned at 1718.

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 24 February 2016

Mercredi 24 février 2016

*The committee met at 1601 in committee room 2.*ENERGY STATUTE LAW
AMENDMENT ACT, 2016
LOI DE 2016 MODIFIANT
DES LOIS SUR L'ÉNERGIE

Consideration of the following bill:

Bill 135, An Act to amend several statutes and revoke several regulations in relation to energy conservation and long-term energy planning / Projet de loi 135, Loi modifiant plusieurs lois et abrogeant plusieurs règlements en ce qui concerne la conservation de l'énergie et la planification énergétique à long terme.

The Chair (Mr. Grant Crack): Good afternoon, everyone. I'd like to call the Standing Committee on General Government to order. We are here to continue public hearings with regard to Bill 135, An Act to amend several statutes and revoke several regulations in relation to energy conservation and long-term energy planning.

We had a very successful day on Monday, and we have four delegations here with us this afternoon who will present for 10 minutes, followed by up to nine minutes of questioning from each of the three parties. I'd like to welcome everyone.

CANADIAN ENVIRONMENTAL LAW
ASSOCIATION

The Chair (Mr. Grant Crack): We will start with the first delegation, from the Canadian Environmental Law Association. I believe we have the legal counsel with us, Jacqueline Wilson. We welcome you, and you have 10 minutes.

Ms. Jacqueline Wilson: Thank you. My name is Jacqueline Wilson. I'm a lawyer with the Canadian Environmental Law Association. The Canadian Environmental Law Association is an Ontario legal aid clinic. Its mandate is to use and improve laws to protect public health and the environment. Our priorities include renewable energy and sustainable long-term energy planning.

We are opposed to the bill. I have passed out a written brief which provides more detail on our opposition to this bill, on behalf of seven public interest organizations all opposed to these changes.

In my presentation today, I'm going to focus on three issues. The first is the reduced accountability for long-

term energy planning brought in by Bill 135; in particular, the concentration of power for long-term energy planning with the minister and the reduced role for the Independent Electricity System Operator and the Ontario Energy Board. The second issue I will address is the decreased opportunities for public participation in the system brought in by this bill; in particular, our concern with the reduced access to documents. Finally, the third issue I'm going to address is that environmental considerations have been sidelined by this bill. There's no mandatory duty on the minister in the long-term energy planning process to consider a whole slew of very important environmental concerns, and the long-term energy plans are again exempted from the Environmental Assessment Act.

In terms of reduced accountability, power is concentrated now for long-term energy plans with the minister. The power of other actors in the system has been significantly reduced by the amendments brought forward in Bill 135.

The Independent Electricity System Operator used to be responsible for integrated power system plans, and under regulation 424/04, section 2(1), there are mandatory requirements for what the IESO had to consider in making its plans, including to consider the implementation of conservation, energy efficiency and demand management measures; to ensure that safety, environmental protection and environmental sustainability are considered; and to ensure that for each project that would require an EA, it would be analyzed for its environmental impact and alternatives would be analyzed as well. Those plans were then submitted to the Ontario Energy Board for independent review.

Under Bill 135, the IESO's role has been very significantly reduced. It now provides only technical reports for the minister, and the requirements for those technical reports are extremely vague. In section 25.29(3), it states that the technical reports will look at "the adequacy and reliability of electricity resources with respect to anticipated electricity supply, capacity, storage, reliability and demand." There are no requirements to study the environmental impacts and alternatives to the plan.

The IESO's other main role in terms of long-term energy planning is to create implementation plans, but those are created only after the long-term energy plan is already issued, and the minister still maintains control and authority to approve those plans.

It's a similar story with the Ontario Energy Board. Under the old system, the Ontario Energy Board hearings would provide an independent eye and look at the IESO's plans. Those included significant public participation rights. That power has been completely removed by this bill. There's absolutely no independent review of the long-term energy plans contemplated by this bill.

CELA's recommendations on the role of the IESO and the OEB are to:

- remove the amendments from Bill 135 which concentrate power with the minister;

- reintegrate a broad planning role for the IESO in developing long-term energy plans; which includes the study of environmental effects and alternative proposals; and

- make it mandatory to have an independent review of the long-term energy plans by the Ontario Energy Board.

Our second major concern with Bill 135 is the decreased opportunities for public participation. Transparency and accountability are significantly undermined by the reduced role for the public contemplated by Bill 135. There's no public consultation on the IESO's technical reports, and then the long-term energy plan consultation is narrow. The public will not have access to all the documents that it needs to look at, understand, review and challenge those plans. Section 25.29(5) states that the minister must only publish "any relevant background materials or other information the minister considers appropriate." That section needs to be amended. It should include disclosure of all, not any, background material and all evidence that the minister is considering in making its plans, and remove the discretion given to the minister about what material it considers appropriate in that disclosure. If there's a specific concern with specific data, like confidentiality, the legislation should spell that out and import the test from section 17 of the freedom-of-information act.

The problems with access to documents in the public consultations on the long-term energy plan are exemplified by section 25.29(7). This section contemplates the release of other important documents only after the long-term energy plan is issued. In its language it contemplates "key data and cost projections" being released at that time, when it's too late, when the long-term energy plan has already been issued. It's absolutely essential for the public to have access to that type of information before the long-term energy plan is issued and during the consultation process. Those two sections do not provide enough information to the public for true engagement on the minister's long-term energy plan.

Compare that to the OEB process where the interveners had access to all of the written evidence that would be relied on to justify the plans. They could submit alternative evidence, argument, interrogatories and cross-examine witnesses.

CELA's recommendations on public participation are to restore the role of the public by including all procedural rights provided to interveners at the Ontario Energy

Board hearings into the consultation process on the long-term energy plans. We ask that it be explicit that full disclosure of all evidence to be relied on by the minister before the consultation on the long-term energy plan be disclosed.

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Our third issue is that the environmental issues are given little consideration in Bill 135. I'm going to point out two ways: Subsection 25.29(2) looks at goals and objectives for the long-term energy plans. The language is not mandatory. It needs to be mandatory that the minister's long-term energy plan takes into account sustainable development or environmental issues, and that non-mandatory list of issues to be looked at in the long-term energy plan process should be compared to the mandatory list of requirements for the IESO's integrated power system plans in regulation 424/04.

Our recommendation on that issue then is that subsection 25.29(2) should be amended to make it mandatory for the minister to take into account conservation first as a priority, renewable energy, environmental impacts of proposals in the plan and the environmental impacts of alternatives.

The Environmental Assessment Act is also exempted under this legislation. Long-term energy plans and all related undertakings are again exempted. Not only is there no Ontario Energy Board process, there's no independent process to study the environmental impacts of these long-term energy plans either.

An Environmental Assessment Act review of a long-term energy plan would require appropriate consideration of alternatives and the likely environmental effects of the proposal. That analysis of long-term energy plans is totally missing from Bill 135.

Environmental assessments of individual projects won't suffice. You need a broad framework review to study alternatives to the whole plan and the likely environmental effects of the overall framework being put in place.

CELA's recommendation on environmental assessment is that section 25.32.1 should be removed. Bill 135 should instead state explicitly that long-term energy plans and all related undertakings are subject to the Environmental Assessment Act.

The Chair (Mr. Grant Crack): If you could wrap up within the next few seconds. We're over the 10 minutes already. So please just—

Ms. Jacqueline Wilson: Okay. In summary, CELA does not support the changes to the long-term energy planning system. There's decreased accountability and transparency. Power is concentrated with the minister, and the role of other important actors in the system, like the IESO, the OEB and the public, are significantly diminished, and the environment is sidelined, including by exempting long-term energy plans from the Environmental Assessment Act. Thanks.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Wilson. We shall start the line of questioning with the official opposition. Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Ms. Wilson, for joining us today and for your submission. I heard the minister during the debate on this bill indicate that this bill would strengthen the Ontario Energy Board. You're a lawyer, right?

Ms. Jacqueline Wilson: I am a lawyer, yes.

Mr. John Yakabuski: Your job is, you look into these things, you would analyze them and you can figure them out in a way that I can't. Can you find me anywhere in here that this Bill 135, as written, strengthens the Ontario Energy Board?

Ms. Jacqueline Wilson: No, I don't think this bill does strengthen the Ontario Energy Board. As I mentioned, the main role of the Ontario Energy Board in the past, under the old legislation, was to provide an independent forum of review for the IESO's plans. That was extremely important. It provided a really important forum for the public to look at, challenge the plans, review the plans and provide alternative evidence. That power is gone in Bill 135.

Mr. John Yakabuski: Would it be fair to say that the minister can basically take the suggestions of the IESO and the Ontario Energy Board and treat them as such, or take the findings or the conclusions of the Ontario Energy Board and the IESO and treat them as suggestions and completely ignore them under this bill?

Ms. Jacqueline Wilson: The bill doesn't provide much about what the minister has to do once he or she receives the technical reports from the IESO. Under section 25.29, that might be a way to strengthen this bill: to add in specific criteria about how those technical reports should be used and implemented.

Mr. John Yakabuski: Under this bill, as is written, he or she could take the technical reports and say, "Well, thank you very much for your work," and file them—correct?—and say, "I'm not abiding by them. I have a better idea."

Ms. Jacqueline Wilson: Right. So what the bill says is that "the minister shall consider the report"—that's the language that's used—and that's it. They have to consider it, and that's it.

Mr. John Yakabuski: "Thank you very much. I've considered them, and now they're going into the wastebasket."

Ms. Jacqueline Wilson: Exactly. So all the minister has to do is consider the report.

Mr. John Yakabuski: "I've considered it. Thank you very much."

Ms. Jacqueline Wilson: Yes, that's open to the minister—

Mr. John Yakabuski: So that could be the extent of what his actual legal requirement is.

Ms. Jacqueline Wilson: I do agree. I think all that's required here is a consideration of the report, and that's it.

Mr. John Yakabuski: What do you think the motivation is, Ms. Wilson, for someone to want to concentrate that much absolute power in the hands of one person, when we have something as huge and complicated and far-reaching as our energy system, which affects every-

thing in this province, whether it's the economy, the environment—everything? Would you be willing to offer an opinion as to what you think the motivation is?

Ms. Jacqueline Wilson: I don't like to speculate about motivations, but what I do want to say is that I think this concentration of power is the wrong way forward. I think we need to make sure that each of these actors in the long-term energy planning system has a strong, important role.

Mr. John Yakabuski: And you have a very broad coalition that you represent—

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the third party. Mr. Tabuns.

Mr. Peter Tabuns: Thanks, Ms. Wilson, for your presentation today.

Just following on the first question by my colleague: This bill certainly doesn't strengthen the OEB. Does it diminish its powers?

Ms. Jacqueline Wilson: Yes, I think this bill significantly diminishes the power of the Ontario Energy Board.

The power of the Ontario Energy Board in the long-term energy planning process was to provide an independent, quasi-judicial forum for testing of the IESO's plans. That was really important, and that provided a place for the public to get access to all the documents that they needed, including anything that the IESO wanted to rely on in supporting its plan, to test that evidence, to cross-examine witnesses. That was all within the purview of an Ontario Energy Board hearing. That's no longer in the bill; there's no independent review of the plans.

Mr. Peter Tabuns: You noted that, effectively, consideration of environmental matters is taken out of long-term energy planning. What are the risks that come from no longer considering the environmental consequences of these plans?

Ms. Jacqueline Wilson: I think the risks are huge. These are long-term energy plans that are going to have vast impacts on the environment. We know from previous plans, in terms of demand forecasting and other issues that have come up in these independent reviews, that there is a significant risk of overbuild. That has huge impacts on the environment.

Mr. Peter Tabuns: You also were concerned that alternatives to particular projects weren't being considered in this process. Again, what's the risk there with not looking at the alternatives for a proposed installation or approach to provision of electrical services?

Ms. Jacqueline Wilson: This is the time when we need to look at how we're providing electricity in Ontario. Renewable energy sources are becoming more and more accessible and easily available. The risk is that if the technical review and then the long-term energy plans don't have a real consideration of those alternatives, we're going to miss our time to actually implement environmentally sustainable renewable energy in Ontario.

Mr. Peter Tabuns: I don't have further questions.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Tabuns. We shall move to the government. Mr. Delaney.

Mr. Bob Delaney: Thank you for coming in today. I'd like to start off with three clarification questions, and you can probably just answer them with yes or no if you wish.

In your description, am I to conclude that you support using the present planning process?

Ms. Jacqueline Wilson: I think the present planning process is better than the current one, but we would have certain things that we would want to change about it. For instance, we would want to take away the exemption of the Environmental Assessment Act from that process. That's in the current process and maintained in Bill 135, and we'd want that taken out.

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Mr. Bob Delaney: Early in your presentation you used the expression "sustainable energy planning." Does your description of sustainable energy planning assume that the process ever reaches a decision or a conclusion on an energy planning process?

Ms. Jacqueline Wilson: I'm sorry; I don't understand the question. Can you repeat that?

Mr. Bob Delaney: You've said that, with changes, you support the present system. Does your description of whatever system you wish it to land on assume that the process ever reaches a decision or a conclusion on an energy planning process?

Ms. Jacqueline Wilson: The point of these long-term energy plans is to provide a framework going forward. It wouldn't be that there's a static decision being made; what it's trying to do is set in place that framework that can allow renewable energy to grow in this province. It would be changing over time, and that's the point of a framework and a forecast that would change. It's long-term energy planning.

Mr. Bob Delaney: Could you provide me an example of an energy-related plan or proposal using the present planning process that has ever reached a conclusion?

Ms. Jacqueline Wilson: One of the reasons that the last plan that went to the OEB didn't reach a conclusion was because environmental colleagues of mine brought to bear how out of whack the demand forecasts were in those plans. That's actually a success story about the independent review process, because that showed why public review, public participation and access to all of the evidence—having real scrutiny of these plans—works. It shows when there's a big problem with those plans.

Mr. Bob Delaney: Early in your presentation you were talking about whether people could access data from the IESO. Just for clarification, are you suggesting that the underlying data from the IESO would not be available to stakeholders?

Ms. Jacqueline Wilson: Based on the way Bill 135 is written, it does not appear that it would be, and that's a problem.

Mr. Bob Delaney: Thank you, Chair. Those are all the questions I have.

The Chair (Mr. Grant Crack): Thank you very much, Ms. Wilson, for coming before committee this afternoon. We appreciate it.

Ms. Jacqueline Wilson: Thank you.

REAL PROPERTY ASSOCIATION OF CANADA

The Chair (Mr. Grant Crack): Next we have on the agenda, from the Real Property Association of Canada, Mr. Brooks Barnett, manager of government relations and policy. We welcome you, sir. You have 10 minutes.

Mr. Brooks Barnett: Thank you for the welcome, Mr. Chair and members of the committee. It's a pleasure to be here today and to speak in support of several of the tenets of Bill 135. My name is Brooks Barnett, and I'm manager of government relations and policy at the Real Property Association of Canada.

REALpac is the country's seniormost voice for the commercial and investment real estate industry. Our members include publicly traded real estate companies, real estate investment trusts, private companies, pension funds, banks and life insurance companies.

Ontario's commercial real estate industry is responsible for a roughly \$12-billion addition in total GDP, as well as 136,000 jobs provincially, and a total gross output of more than \$23 billion in provincial spending. Those are a few key stats on our industry.

REALpac would like to thank you for the opportunity to speak today about Bill 135, the Energy Statute Law Amendment Act. The bill contains several amendments to the Green Energy Act, which would significantly impact the commercial real estate industry. We view this bill in its entirety as a major enabler of enhanced energy management and improved communication of key industry trends. Of the many proposed changes, we feel the most important are the following:

(1) The bill requires utility distributors to make information available with respect to the consumption of electricity, gas and water at prescribed properties; and

(2) The bill provides authority to require the reporting of energy consumption and water use to the ministry.

The overarching theme throughout Ontario's long-term energy plan is the commitment to put conservation first. We believe that these proposals are indicative of the government's commitment to energy conservation in Ontario. More specifically, they signal the government's intention to mandate the reporting of energy and water consumption in privately owned buildings.

We're generally supportive of the government's energy conservation goals, and believe that the bill improves building conservation practices in two major ways. Firstly, we believe that the bill remedies a very important problem for building energy conservation: It provides owners with crucial energy data, otherwise not accessible through existing legislation. As it stands, building owners just don't have comprehensive information on buildings.

We believe that the requirement that utility providers share consumption data will greatly assist our owners and landlords in meeting reporting responsibilities. As the energy reporting requirements are likely to apply to

several building classes where whole-building data collection is problematic, it's vital that we take necessary steps to improve information access for all of our landlords and building owners. For example, retail shopping centres rarely have access to whole-building energy data, as tenants are not required to provide it. This would result in an incomplete statistical data set for all of these buildings. Bill 135 answers REALpac's earlier requests to the ministry to address this very issue.

Secondly, the bill will provide the breath of life for a future mandatory energy reporting framework already under consideration in Ontario and likely to form the basis of other provincial programs nationally. In this, Ontario has a chance to lead by example. REALpac and our industry allies have been involved in consultations with the ministry since 2014. Passage of this will initiate this program, which will apply province-wide and touch most of our members. We believe, if the requirements are eventually enacted, that they adhere to the following five principles:

(1) They apply to Ontario's largest commercial buildings first, then are scaled to smaller buildings in future years.

(2) Both absolute and normalized data is disclosed, where available.

(3) Water data is phased into the program well after the program has a chance to mature.

(4) The province should use discretion when determining which properties' data is disclosed and why.

(5) The ministry should provide resources, education and technical guidance to landlords before the energy reporting requirement is introduced.

Energy and water reporting and benchmarking initiatives for large buildings would require property owners to track their building's energy and water usage over time, as well as greenhouse gas emissions, to determine how a building's energy performance is changing and how it compares to other buildings. This ongoing review would help building owners identify opportunities to save energy and water, thereby saving money on utility bills. It would also help tenants and buyers make informed property decisions, enabling property and financial markets to value building energy and water efficiency more than they currently are. It would also help Ontario meet its conservation and greenhouse gas reduction goals. Disclosure, therefore, helps conservation efforts. This is a fact. Getting access to the data isn't only useful for the province, it also allows building owners to get a full picture of energy use and run Ontario businesses more effectively.

Ontario's commercial real estate industry is ready for such a program. In fact, most of Ontario's largest property portfolios are already benchmarking their building energy usage and they're doing it voluntarily. Building owners understand that what gets measured gets managed and this can be translated into a direct bottom-line benefit. Extending these requirements to large buildings would align Ontario's policy with jurisdictions in the United States, Europe, the United Kingdom and Asia.

The proposed act establishes the province's authority to make new rules for the private sector, and we would ask that policy-makers at the province ensure that these principles are contained within the draft regulations expected later this year.

I'll close by informing the committee that these ideas are meant to reflect a consensus opinion in our industry, which is eager to work with the ministry on the design of an effective conservation program for Ontario's buildings.

Thank you again for inviting us and listening to these concerns. I'll be happy to answer any questions the committee might have.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Barnett, for your presentation.

We shall start the line of questioning with Mr. Tabuns.

Mr. Peter Tabuns: Mr. Barnett, thank you very much for coming in today and making this presentation.

The scale of potential energy reductions in this commercial sector: Has your association done an assessment of what the potential is there?

Mr. Brooks Barnett: There are stats available from the States that are comparable. It's a hard thing to gauge because it depends, really, on the intrusiveness of the program. It depends on which building types; it depends on what your ultimate goal is. There are stats from the States that indicate that there could be as much as 14% to 40% energy reductions in a building once building owners ultimately act on what is coming back to them. We don't have an exact estimate. I can't give you a volume, province-wide, but I will say this: It will be quite significant to Ontario's overall energy demand.

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Mr. Peter Tabuns: Do you have a sense of the current size of the market for ongoing energy efficiency retrofits going on in the commercial sector at this point?

Mr. Brooks Barnett: Presently or future?

Mr. Peter Tabuns: Presently.

Mr. Brooks Barnett: Not exactly. I could dig those numbers up for you and send them your way. The market is large. Most of the largest portfolios and the largest companies, in Ontario at least, have quite a professional contingent within their employment roster that looks at this and are constantly trying to evolve programs. I would estimate, just based on that fact, that the market would be pretty large.

Mr. Peter Tabuns: Okay. I don't have further questions. Thank you very much.

Mr. Brooks Barnett: Thank you.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. We shall move to the government. Ms. Hoggarth?

Ms. Ann Hoggarth: Thank you for your presentation.

I understand that REALpac has been involved in the early stakeholder feedback about this process. I want to know, what is the difference, in terms of impact on your industry, on whether this proposal was to be adopted province-wide or at the municipal level?

Mr. Brooks Barnett: Ultimately, I think, as a matter of good public policy in terms of sheer effectiveness of the program, it would be best that this is a provincial program. We took the position and we advocate, in fact, provincially elsewhere that ultimately a provincial government is best to institute the program because there will be a far wider applicability to all municipalities.

I think in terms of consistency, as well, it would be best that there isn't a patchwork of 20 municipalities that all have a reporting structure or a framework in place, and then a provincial component on top of that. We would like to have a system in which our companies ultimately report as little as possible. It is administratively burdensome and it can be, based on how the program is set up, very time-consuming for employees within companies to track the data, provide the data, benchmark the data, and ultimately try to create a program where they are also in charge of reducing the energy. So our opinion is that it's best provincially, and that's an opinion that is being taken up in other provinces as well.

I think, municipally, there is an understanding that there's value in doing that and there is buy-in, in my opinion, from the cities we have spoken to, to move this provincially, and they are fully co-operating.

Ms. Ann Hoggarth: So this is good for your members. They have a benchmark to go by. Currently, there's no such benchmark set in stone, so to speak.

Does REALpac agree with the phased-in implementation of the large building energy and water reporting and benchmarking, and, if so, why?

Mr. Brooks Barnett: We do agree with the phase-in. Ultimately, we would like our building owners and operators to have enough time so that they can customize their staff to what's being required of them. Doing it overnight at the snap of a finger would not make for an effective program. Phasing it in and treating the largest companies first, sliding that to smaller companies—that's effective because, as I indicated, most of those large companies are already engaged in these processes voluntarily and they're doing it privately and it's working for them. So we do generally agree with—

The Chair (Mr. Grant Crack): Thank you very much; appreciate it. We shall move to Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, Mr. Barnett, for coming in today and for your submission. Your group has carriage over a lot of real estate, not only here in Toronto but all across the country.

Mr. Brooks Barnett: And internationally as well, I might add.

Mr. John Yakabuski: Thank you very much. I'm only dealing with Canada. They don't give me a licence to work internationally yet.

Mr. Peter Tabuns: And a good thing.

Mr. John Yakabuski: And a good thing, Peter. In fact, my local licence is under review too.

Most of your submission spoke about amendments to the Green Energy Act. We all recognize how important it is to conserve energy and a resource such as water. I did see that you talked about a phase-in for the water requirements after the program matures. One of the things that

we've received through our written submissions is from the beverage producers; for example, the brewers, the soft drink producers etc. The amount of water that's used in the building is one thing. When you're talking about real estate and you're talking about the malls or large office buildings, you're talking about how much water could be saved by enhancing the conservation, by the way the washrooms work, the toilets flush etc.—the amount of water that's used in the administering of the businesses that are carried on in the building. For that group of people, water is the essential ingredient in the product that they produce, and the release of that information certainly could be considered proprietary with regard to the competitive advantage they have, or disadvantage they may end up experiencing with one of their other competitors within the industry. Do you accept that maybe there needs to be some sort of an exemption for them from that side of the water—

Mr. Brooks Barnett: Absolutely. On that point, we have advocated in the past, and I think rightfully so, that it isn't necessarily about the reporting as much as the disclosure piece.

It's how those grey-area property types or companies that are—for example, a film studio, a trading floor, a data farm—disclosing that and representing that as an apples-to-apples comparison really wouldn't be effective because they're special cases. Therefore, we have advocated that it would be best that—if the reporting is to occur, that's fine, but the government should consider whether or not it is effective to release the data; or, at least, if the data is to be released, a notation that it's a special case or—

Mr. John Yakabuski: For example, if one company perfects some sort of a process that significantly reduces their water consumption, to have that released would negate the investment they've made in doing that—to another competitor. So I think there are some things missing in this bill that need to be addressed. That's part of their proprietary business. They come up with a system that saves them a lot of money by saving a lot of water. That shouldn't be disclosed to their competitor.

Mr. Brooks Barnett: We would agree. There should be a certain level of discretion so that an exemption—or call it something else—is provided that will protect, whether it's proprietary information relating to buildings or a beverage soft drink company.

Mr. John Yakabuski: Yes, I understand the operations of a building, that's—

Mr. Brooks Barnett: I agree with you that that should be included in the bill.

Mr. John Yakabuski: Thank you very much for your time today.

The Chair (Mr. Grant Crack): Thank you, Mr. Barnett, for coming before committee this afternoon. We appreciate it.

GREEN ENERGY COALITION

The Chair (Mr. Grant Crack): Next, we have the Green Energy Coalition. We have two individuals with

us this afternoon: counsel Mr. David Poch; and senior energy analyst of Greenpeace Canada, Shawn-Patrick Stensil.

We welcome both of you here this afternoon to committee. I'll give you a couple of seconds to get started. Whenever you're ready, gentlemen, you have 10 minutes.

Mr. Shawn-Patrick Stensil: My name is Shawn-Patrick Stensil, as mentioned. I am a senior energy analyst with Greenpeace Canada. Greenpeace Canada is also a member of the Green Energy Coalition, which also includes groups like the David Suzuki Foundation and the Sierra Club.

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David Poch is our counsel at the Ontario Energy Board and will be presenting with me. David has been presenting to the Ontario Energy Board on behalf of the GEC now for 30 years, so he can tell you about how Ontario Energy Board reviews have worked under all sorts of governments.

We don't think this bill addresses the problems that Ontario has faced over the past 10 years, nor do we believe that it will address the problems that we're going to face over the next 20 years. For these reasons, we would recommend to the committee that if you were to pass this, it needs to be significantly amended, and we've provided some draft amendments to the committee. David will talk about these amendments further, but we submit that they're also aligned with the government's Open Government policy.

I mentioned the problem that we've been facing over the past 10 years. As the committee will know, the Auditor General came out with a report in December discussing these problems over the past decade. I think one thing that the government has done is to portray this bill as a response to the Auditor General's report. We would take issue with that. We actually see that this bill will make some of the problems identified in the auditor's report worse by removing checks on the power of the minister and by lowering transparency. Here, I would just quickly quote—aside from what's on screen—the auditor's report has identified this as the key problem over the past 10 years: "Operating outside the checks and balances of the legislated planning process, the Ministry of Energy has made a number of decisions about power generation that have resulted in significant costs to electricity consumers." I think that is the root cause and that isn't actually well addressed in this bill.

I'll pass it over to David.

Mr. David Poch: As you can see, I've styled the bill the "energy czar act," with all due respect to the minister. That's what it de facto is. It's a total concentration of power. It's a retreat from public process. I'm astounded by the doublespeak that we've been hearing. It's going to eliminate the OEB's public hearing review of energy plans and eliminate environmental review of energy plans. It will not ensure transparency or accountability. And I think the conclusion is that it's going to encourage more gas plant fiascos and white elephant megaprojects.

I've been there for the last 30 years in front of the energy board. I was there for the hearings that the government is concerned have gone too long and not reached conclusions. I find it bizarre that the government would blame the process for that, when here's what really happened: In the demand/supply plan hearings, these hearings went on and on and on, and Ontario Hydro, as it was, was the one who withdrew the plan, piece by piece by piece, as reality was unfolding, as our and many other interveners' evidence was being put in, demonstrating that they had come up with a completely flawed plan based on a completely flawed forecast.

The fact that they withdrew was a success for the public. They were talking about spending \$200 billion. None of that happened. So that hearing was a dramatic success. To say it's a failure because it didn't reach its full conclusion and a report and the utility's proposal wasn't blessed—it's completely the opposite.

Similarly, the IPSP hearings that were in the 2007-08 time frame: It was the minister who stopped that process because he changed his mind. The process never had a chance to run its natural course and let the board speak and offer its wisdom. So I just can't agree with the suggestion that there was a problem with the process. The problem was with the plans that were being put forward.

The lack of transparency that is part of the current proposal can lead to insidious results. We know this for a fact because—the committee members may not be aware—there was actually a 2011 IPSP, too. Through freedom of information, we were actually able to get the exhibits prepared to be put in front of the energy board by the IESO, the OPA, as it was. Clearly, what happened is that the government put the kibosh on that, and, as the Attorney General has pointed out, that was not what the law required. We can speculate as to why. One of the things that those documents disclose is that the surplus of baseload generation problem, which much has been made of, was severely exacerbated by the decision to extend the life of the Pickering reactors, something the government was doing at the time and has done again just in the last few weeks. So it may have been uncomfortable.

Well, that's exactly what we need. We need a public process that exposes these uncomfortable facts, allows for input and debate, so that we don't have gas plant fiascos in the future. I think, in short, you can't rely just on the IESO for either a complete or an unbiased review. You need meaningful public input to fill the gaps.

Mr. Shawn-Patrick Stensil: I mentioned off the top that we don't feel that the bill addresses where we've been, in terms of the problems addressed by the auditor. I would also like to flag for this committee that the problems we've been facing over the past 10 years may not be the same as the ones that we'll face over the next 20. What we're going to see over the next 20, for example, is an end to the growth of renewable energy—unfortunately, from Greenpeace's point of view. What we are going to see, however, are 10 reactor rebuild projects, which is on par with what we were building in the 1980s. These will be very different problems that we will need to address moving forward.

One thing we would like to flag for the committee is that the government hasn't made a commitment to off-ramps for these reactor projects. It's 50% of the electricity system. If they go sideways—which they will, because they always have—there will be the option to go in another direction. That's not mentioned in this bill. The biggest risk to electricity consumers and the environment is not addressed in the bill. Whether you're pro-nuclear or anti-nuclear, frankly, this is a huge public policy issue and governance issue. How will that decision be made transparently, and how will we be looking at, as the auditor suggested, cost-benefit? Right now, that is left more or less to the discretion of the minister and the IESO, and that's how we got into the gas plant scandal. That is a big concern from our part that we think there needs to be amendments on.

Mr. David Poch: Just very quickly: It has been pointed out that there are implementation plans that will come from the OEB and the IESO. I just want to make the point that the implementation plan is an after-the-fact matter once the long-term energy plan has been set. It's just simply how you're going to go about doing your RFPs or whatever. It's not the same. It may be as little as an accounting exercise; it could be much more than that.

But to the extent that it is at all meaningful, the bill does not suggest that there's any public input or review in the OEB process of creating an implementation plan. So it leads me to wonder: Why is the OEB doing this? You're putting them in the role, in effect, of proponent of the plan rather than a regulator or a referee, and so on. I think it compromises their impartiality. I think, further, as we've seen, any discretion the OEB might have in implementation can easily be constrained by the minister, as we have seen. It has been done by the directives. That's something that we would like to see limited.

Mr. Shawn-Patrick Stensil: For the committee: I participate in a lot of public consultation processes on behalf of Greenpeace. I usually use our participation in the OEB as an example of a best practice. We're not always happy with the outcome, but at least there's an understanding of where there's a commonality on facts and what the actual disagreements are. Here we're proposing, in fact, to take that ability away from the public and at a stage where it's very important for testing evidence.

As David has raised, the issues that were revealed to us in these FOIs in the 2011 IPSP would have changed the political debate on where we were going in 2011. That's what we need. That's what checks on political power are about. That's how we get to better decisions. Unfortunately, in this process, that ability for third-party interveners that aren't well funded to come in to question and challenge assumptions has been taken away. We're going to get worse planning because of that.

The Chair (Mr. Grant Crack): You've got about two seconds left—final wrap-up.

Mr. David Poch: All right. I think we should just go right to our recommendations. We've handed out a separate page. We're suggesting, first of all, that the bill

should prioritize sustainable energy options, something the government says it's committed to. It should walk the walk. Clearly, we are in favour of public hearing review, both for large projects, including these off-ramp decisions my colleague has spoken about, and the plans themselves.

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At a minimum, we've suggested to at least use the OEB as a venue for supervised discovery, interrogatory processes or an expedited written process. It's within the government's power to tell the OEB that they want them to use an expedited process. They already have a regulation that allows them to set time limits for the OEB. There are ways to use that process without the fears that the government has expressed about that hearing process getting out of control.

The Chair (Mr. Grant Crack): Thank you very much.

Mr. David Poch: We've given you some specific recommendations on paper that are in front of you.

The Chair (Mr. Grant Crack): Thank you very much. I apologize for cutting you off, but I gave you an extra minute to wrap up.

Mr. David Poch: It's understandable.

The Chair (Mr. Grant Crack): We'll start with Mr. Delaney from the government.

Mr. Bob Delaney: You made an interesting statement, and I'd like to ask you a question: On what basis do you project an end to the growth in renewable energy?

Mr. Shawn-Patrick Stensil: It's in OPA documents. That has always been the plan. If demand is not going up, you're not going to be adding renewable energy forever. After the IPSP was pulled in 2007, a memo went to the OPA board basically saying that after 2016, if you don't lower the nuclear commitment, you have to end renewable development. That's government policy.

Mr. Bob Delaney: In other words, I could find that same—

Interjection.

Mr. Bob Delaney: Do you mind? Thank you.

I could find that same conclusion in the 2013 long-term energy plan?

Mr. David Poch: That renewable energy would end? Yes.

Mr. Bob Delaney: Okay, I'll check.

Have you estimated what the planning review time frame would be under the proposals that you've made?

Mr. David Poch: I think, realistically, most OEB processes this intensive take about a year. I think what that suggests and what I think is rational is that plans understand that the world is evolving—you need flexibility in plans. You need to have a range of options. You need to lay out how you're going to react to change. That's what intelligent energy planning is about, not locking yourself in. The plan should not lock itself in. We should give preference to options with flexibility. So that year, I think, is not a difficult time frame.

Mr. Bob Delaney: In the recommendations that you've made, would you characterize them as an exten-

sion of the current IPSP or a modification of the long-term energy plan options?

Mr. David Poch: Well, let's be clear: This isn't our dream regulatory regime. We are trying to be helpful and make suggestions that reflect what the government has already had in place, what the Auditor General suggests is appropriate and some of the points that are being brought forward in Bill 135.

I think that you can cure the ills of the current legislative regime, the IPSP process, through directives to the energy board, through the board exercising its authority to control its own process.

Mr. Bob Delaney: So what you're suggesting is a process different than the current IPSP process, but not the long-term energy process as proposed in the bill?

Mr. David Poch: We are suggesting something closer to the current process than the Bill 135 suggestion. The Bill 135 process is simply the minister publishing the plan.

Mr. Bob Delaney: Those are all my questions.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. We shall move to Mr. Yakabuski from the official opposition.

Mr. John Yakabuski: Thank you very much. When you have a moment, maybe you could give a copy of the forecast on renewables to the parliamentary assistant. I'm sure he could use that in his speaking notes.

Anyway, in these hearings the last couple of days, the vast, vast majority of the witnesses who have appeared and who have had a view on the planning procurement side of this bill have been diametrically opposed to what we're seeing here.

What you said here today when you quoted the Auditor General's report—would I be putting it correctly that you said all of the mistakes that have been done under the current legislation by the minister using his or her power, whatever the case may be, that we would actually entrench that in legislation and give them even more power to make more mistakes without checks and balances under this current Bill 135?

Mr. Shawn-Patrick Stensil: Effectively, yes. Our read of the bill is, and the government thinks similar things, that it's legalizing what has been done over the past 10 years. Whereas, where the auditor says the problem was them working outside of the legal framework, this is just, "Okay, we'll change the legal framework. We can meet the rules, but we've just changed them." What we should have learned from—

Mr. John Yakabuski: So we legalize bad decisions at this point.

Mr. Shawn-Patrick Stensil: Yes, and removing checks on—what we really worry about is checks on political accountability. As David mentioned, this information that we got out of this IPSP FOI document—we wouldn't have agreed on the outcome, but it would have changed the political discussion and political decisions that are made. So we need access to that kind of information going forward.

Mr. John Yakabuski: Were you people consulted at all before the drafting of this legislation?

Mr. David Poch: No.

Mr. John Yakabuski: Nothing at all. No contact with the ministry whatsoever—

Mr. Shawn-Patrick Stensil: On this legislation, no.

Mr. John Yakabuski: —when this legislation was drafted.

Mr. David Poch: None.

Mr. John Yakabuski: Would you call this a major piece of legislation with regard to the energy future here in Ontario?

Mr. David Poch: I would call it the most major piece of legislation we've ever seen.

Mr. John Yakabuski: And no consultation previous to the drafting of the bill.

Mr. David Poch: Correct.

Mr. John Yakabuski: Do you find that strange?

Mr. Shawn-Patrick Stensil: It's unfortunate. We've put forward recommendations on how we think we can improve the bill, where we're at right now. What I would also flag from an environmental perspective that we didn't get to in the presentation is that this bill effectively ends sustainability assessment in the Ontario legal system. This has been death through a thousand cuts. You may remember Minister Broten justifying a regulation in 2006 that removed provincial environmental assessments. This is now basically codifying that as well. From an environmental perspective, that is not a good thing moving forward. We hope that could also be addressed in the longer term.

Mr. David Poch: Part of the rationale for taking energy projects out of environmental assessment per se was because this IPSP process could look at those things—or the joint board process before it. Now there's no such thing, so there is no environmental review of the choice between alternative energy paths.

Mr. John Yakabuski: As it stands, this is a very damaging piece of legislation. Would you say that?

Mr. Shawn-Patrick Stensil: We think it's a dangerous power grab and we won't get good environmental or policy decisions from it.

Mr. David Poch: And bad economic decisions will arise.

Mr. John Yakabuski: Thank you very much for your time. I appreciate that.

The Chair (Mr. Grant Crack): Thank you. We shall move to Mr. Tabuns.

Mr. Peter Tabuns: Thank you, David and Shawn-Patrick, for the presentation.

The first question, then, is this: Does this bill undermine the OEB's authority in the energy field?

Mr. David Poch: I think it eviscerates the OEB's authority in the field. As it was, the government, through its IPSP directives, was already pushing limits to very much limit the scope of review of the energy board, but this absolutely eliminates it.

Mr. Peter Tabuns: You referred to this as the "most major" piece of legislation. Why do you use such terms?

Mr. David Poch: I think this is complete in its effect. It completely removes public process, other than pro

forma consultation after the plan is already set, and even then without full disclosure of the background materials. It's a loss of public process. I think it's a shame for Ontario's democratic processes.

Mr. Peter Tabuns: You referenced the potential for this to set up the possibility of another gas plant scandal. Do you want to talk about why?

Mr. David Poch: I think the antidote to political misadventures, whatever the motivation—I don't need to speculate—is transparency and accountability. This act, in many ways, reduces transparency and reduces accountability. Far better that we avoid problems than uncover them later. Accountability is about finding out about them later. Far better if we have transparency and avoid them in the first place.

Mr. Shawn-Patrick Stensil: Just to add to that, Peter, remember, moving forward, there will be decisions on about 10 reactor life extensions. The government has said they'll do off-ramps, but there is no legal mechanism that there will be an independent review of that decision, there will be full disclosure of that.

Frankly, with the Bruce decision, we can't even get the terms sheet, and what price is too much? None of that is available to the public. We're just reassured that it's cost-effective. That's not fair to green energy or electricity consumers.

Mr. Peter Tabuns: Okay. I don't have further questions. Thank you very much.

1700

The Chair (Mr. Grant Crack): Gentlemen, thank you for coming before our committee this afternoon.

Mr. David Poch: Thank you.

Mr. John Yakabuski: Thank you very much.

The Chair (Mr. Grant Crack): That's usually the role of the Chair, Mr. Yakabuski, but I appreciate you complimenting us.

It's 5 o'clock. That's two meetings in a row where our last delegation was right on time. We're moving along rather efficiently.

Mr. Bob Delaney: Good chairmanship.

The Chair (Mr. Grant Crack): Thank you very much. I wasn't looking for that, but we're a good team.

ONTARIO ENERGY ASSOCIATION

The Chair (Mr. Grant Crack): I'd like to call the last presenter for this afternoon, but certainly not least—as important as all: Ontario Energy Association. We have the chair, Mr. David McFadden; President Bob Huggard; and also the legal counsel, Ian Mondrow, with us this afternoon. Gentlemen, we welcome you to committee. You have 10 minutes for your presentation.

Mr. David McFadden: Thank you very much, Mr. Chairman, members of the committee. Thank you very much for providing the Ontario Energy Association with the opportunity to present our position on Bill 135. As the Chair indicated, I'm Dave McFadden. I'm chairman of the board of the OEA. To my right is Bob Huggard, who is our president and CEO, and immediately to Bob's

right is Ian Mondrow, who is legal counsel for the association.

I'd like to start off perhaps by giving the members of the committee a brief introduction about the Ontario Energy Association. As many of you know—and I know a number of you have certainly been to OEA events over the years—the OEA is an advocacy organization that represents Ontario's electricity and natural gas industries. We have a diverse membership, ranging from electricity and natural gas distributors and transmitters, to renewable, thermal and nuclear generators, to suppliers and service providers. We represent the Ontario energy leaders that span the full diversity of our province's energy industry. So we cover the whole range.

Bill 135 is largely about long-term planning, as you know, which is an extensive process that directly impacts our entire membership. That's why today, we're just going to be talking about the energy planning process. We're not going to be commenting on the energy and water consumption reporting; that latter part we're not going to comment on.

Bill 135 is an important step for the province because until now, electricity planning in Ontario has not taken place within the existing legislative framework set out under the Electricity Act.

I'll outline a few of the reasons why we think Bill 135 is important.

First, and perhaps most importantly, it provides clarification on how energy planning will proceed in the future in this province. Predictability is very important for the energy sector, as you well know, because energy projects are often capital-intensive and require long lead times for development and construction. Sometimes, they're years in the planning, but even the briefest usually is two or three years at least.

Energy infrastructure is vital to our province's economic prosperity and to our standard of living. Proper planning is essential. By spelling out when and how energy planning will be done, Bill 135 greatly improves the ability of energy companies to do business in Ontario and provides Ontario's citizens and businesses with reliable and sustainable energy supplies.

Bill 135 also makes some specific positive changes to the role of the Independent Electricity System Operator. In particular, Bill 135 adds electricity storage and transmission projects to the IESO's procurement authorities. The proposed IESO procurement mechanisms will improve the integration of renewable power into Ontario's energy system while encouraging new, competitive entry into Ontario's storage and transmission businesses.

With the merger of the Ontario Power Authority with the IESO, our association is confident that the new IESO has the skills to carry out these new mandates. We see the formalization of these procurement responsibilities as a good thing. If anything, we feel that Bill 135 does not go far enough in strengthening the role of the IESO in the electricity planning process.

So what I'd like to do is call on Bob Huggard to give you an overview of the points that we'd like to make in

terms of amendments to Bill 135, which we think are both important but also very straightforward. Over to you, Bob.

Mr. Bob Huggard: Thank you, David. I'll move right into our recommendations for improvements.

The OEA has four main principles that it would be beneficial to have further reflected in Bill 135 and in the actual long-term energy planning process: consultation, deferral to experts, costing, and transparency.

I'll start with consultation, because logically it's the first part of the planning process, and also because this is the easiest one. Bill 135 includes consultation requirements, but if you look carefully, you'll see the Minister of Energy is required to consult with groups "that the minister considers appropriate given the matters being addressed." In other words, it's discretionary as to who gets to participate in consultations.

Given how important energy planning is for all Ontarians, we'd like to see this language amended so that all interested members of the public can have a say. This inclusive approach is also in line with the government's 2013 LTEP process, which at the time the OEA publicly stated was "a comprehensive and extensive consultation." So we are just looking to have what was done then included in the legislation, since it worked.

The second principle is deferral to experts, and this is perhaps the most important of our four principles. Simply put, the role of the IESO in the electricity planning process should be strengthened. The IESO is the agency with the most expertise in the technical parameters of Ontario's electricity system and, as David mentioned earlier, the industry has confidence in the new IESO's abilities. A stronger role for the IESO will not only produce a sounder plan, but will also help to depoliticize implementation of the government's planning objectives and principles that both government and opposition have repeatedly endorsed.

There are a few different ways that we have proposed to strengthen the IESO's role in the planning process. First, the technical assessment that the IESO provides shouldn't just be about providing a supply and demand outlook; it should also include recommendations for the plan itself for the minister's consideration. As part of the technical assessment report, the IESO should also include the costs and benefits of its recommendations. Government should then issue a draft plan, and the IESO should be required to analyze the projected costs and benefits associated with the plan, and provide a costing report to the government.

Once the plan is finalized, the actual implementation should be left to the experts at the IESO and the Ontario Energy Board. These agencies are, of course, required to conduct their activities in a way that facilitates plan implementation, but the actual details of how the agencies will implement the plan do not need to be subject to approval by the minister. We have confidence in the ability of Ontario's expert agencies, and we hope that you do as well.

Our third principle, which I alluded to a moment ago, is costing. We're talking about decades-long, multi-

billion dollar commitments here, so I think it's obvious that before being finalized, any plan must undergo a thorough and independent assessment of the costs and benefits.

Costing documents were publicly posted during the 2013 LTEP process, so again, we're just looking to have what was done then included in this legislation. We are recommending that they be posted prior to the LTEP being finalized, in order to support informed public input on the plan and full information to support government decision-making.

Lastly, transparency: I'll again note that the decisions made in the long-term energy plan affect virtually every Ontarian and will continue to do so for decades to come, so there needs to be a way to have a public review of the plan, the cost-benefit analysis, the technical report and any other background information the government uses before the plan is finalized.

There are multiple options for public review and, regardless of which mechanism is chosen, a full and open review is a cornerstone of public acceptability and legitimacy for planning decisions. All of these documents were publicly posted for review and comment during the 2013 LTEP process, so again, we are just looking to have what was done then put in place here.

If any of you participated in the 2013 LTEP, then much of this will sound familiar, and that's because the government did an unprecedented job in developing the plan, consulting with our industry and the public, and working closely with the IESO to get the facts right. I'd like to take a moment on behalf of the OEA to kindly thank Minister Bob Chiarelli and his team for running such an exemplary process. It worked well and produced a balanced plan.

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It's important to note that the 2013 LTEP was still an ad hoc process, and while Bill 135 attempts to codify the planning process, it doesn't fully capture what worked so well in 2013. We want to see a planning process that is inclusive, defers to the experts, is costed and transparent, and which will therefore stand the test of time.

As the OEA publicly stated during the 2013 LTEP: "Successful energy policy is created when government and industry work together." So I hope that's just what we can do here today.

Thank you for the opportunity to be here.

Mr. David McFadden: Thank you, Mr. Chair. That's our submission.

The Chair (Mr. Grant Crack): Thank you very much. On the front of your presentation it says, "Check against delivery." You nailed it; 10 minutes right on the button. I've just showed the Clerk that. It's the first time in the history of this committee, I would suspect.

Mr. Bob Huggard: I will get the \$5 bill afterwards.

The Chair (Mr. Grant Crack): We shall start with the official opposition. Mr. Yakabuski.

Mr. John Yakabuski: Thank you very much, gentlemen, for joining us today. You guys planned very well. There's a saying, something to the effect of, "When you

fail to plan, you plan to fail.” Well, you guys planned, and that’s why you nailed it at 10 minutes exactly.

Let’s talk about the consultation process. Thank you very much for your input. Approximately how many members are in the OEA?

Mr. Bob Huggard: About 100.

Mr. John Yakabuski: About 100. So we’re not talking about a little group. We’re talking about 100 members, a diverse group, all involved in the energy sector.

Mr. Bob Huggard: That’s correct.

Mr. John Yakabuski: When you speak here, you’re speaking for your 100 members.

Mr. Bob Huggard: That’s correct.

Mr. John Yakabuski: Thank you very much.

Mr. David McFadden: One of the unique aspects is that it covers every part of the industry, too. We’re not just distributors or generators; we cover the whole spectrum.

Mr. John Yakabuski: The whole gamut.

Mr. David McFadden: Yes.

Mr. John Yakabuski: On the consultation process, if I was looking to get somewhere and I was doing a consultative process, if I get to pick who I’m consulting, who’s part of that process, there’s a good chance I’m going to get where I want to go, not necessarily where we should be going. Is that a fair statement? If I get to choose who is part of the consultative process, there’s a chance that the conclusion is going to be one that is in keeping with my thoughts.

Mr. Bob Huggard: I suppose that could get you in that direction, yes.

Mr. John Yakabuski: But if I open up that process, we might actually get to where we’re supposed to be going, not just where I’d like to go. Is that fair?

Mr. Bob Huggard: If you invite open consultation, you will hear a diverse range of opinions, there’s no question about that, as you’ve heard today, just in the short time I’ve been here.

Mr. John Yakabuski: So your first recommendation’s pretty significant: You want that consultative process opened up so that the minister doesn’t get to pick who he chats with. Whoever believes that they have something to offer to the process should be allowed to participate.

Mr. Bob Huggard: We believe we’ll have a more effective long-term energy plan with getting as many views in the public arena for discussion, yes.

Mr. John Yakabuski: The deferral to experts—again, you have tremendous trust in the ability and the expertise and all of the knowledge that is encompassed in the IESO.

Mr. Bob Huggard: Yes, we do.

Mr. John Yakabuski: And you believe that it would be wrong for the minister to simply ignore that technical expertise and that business expertise with regard to our energy sector.

Mr. Bob Huggard: We believe the minister should defer to the experts when it comes to receiving a technical analysis, including the costs and benefits of those

plans, and when it comes to the implementation plans for the long-term energy plan.

Mr. John Yakabuski: I see in your brief that you’ve made some recommendations with regard to amendments.

Mr. Bob Huggard: Yes.

Mr. John Yakabuski: We’re not going to have time—I know I’m going to get cut off any second. I hope that those on the government side—because we live in a majority rule. Do you think this bill would have—no, I won’t even ask you that.

I don’t think this bill would have ever been brought forward in a minority government, but under the circumstances, we have what we have. But I hope that the government is going to be listening to the recommendations from so many people with regard to amendments to this bill.

I thank you for your amendments, or your suggestions.

Mr. Bob Huggard: Thank you.

The Chair (Mr. Grant Crack): Thank you very much. We shall move to the third party. Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Chair. David, Bob, Mr. Mondrow, thank you very much for coming today and making the presentation.

Twice you talk about the need to cost things before you go forward. On the face of it, it makes sense to me, but you may want to enlarge on why costing is so critical in this process.

Mr. Bob Huggard: Our members, many of which make long-term and significant investments, need to understand what the environment is that they’re going to be investing in and the business decisions around that. To that effect, their business plans are costed and analyzed, and decisions are made around that.

We feel that that same philosophy can exist when we’re looking at the overall provincial long-term energy plan: that we should look at not just supply and demand but what the various costs and the concomitant benefits from those investments will have on making different choices within that plan. So we think we will get a stronger plan from having the cost and benefits as part of the overall evaluation.

Mr. David McFadden: The other thing I’d just mention, as well, that you commented on is the importance of the energy sector to the economy. I think it’s important that the people of Ontario, industry and the individual citizens be able to see what the cost to this whole thing is because it’s vital to our economy and their standard of living. To me, it’s axiomatic that they should have some idea of what this whole project is costing so that they make a judgment on it.

Mr. Peter Tabuns: Yes, I agree actually. It makes total sense to me.

You’re recommending that the OEB continue to be involved in assessment of these plans, and that seems to be directly contrary to the direction this bill is going in. Why would the government avoid the OEB as the place for having that public debate and that public testing of information?

Mr. Bob Huggard: We see the Ontario Energy Board as having the expertise, as one of the independent agencies in the province, to be able to play a particularly strong role in implementation. We have recommended that additional resourcing would be beneficial to the OEB's role, but it has definitely had a very important role in Ontario in overseeing the implementation of plans, both of our members and some of the overarching strategies in the province.

Mr. David McFadden: I think, as well, that the importance of the OEB is to some extent giving it social acceptance. It's a forum where people can count on the fact they're going to get an independent review of whatever's proposed. We think that's all part of the whole package.

Mr. Peter Tabuns: The last question, then: Were you consulted about this bill in advance of its introduction?

Mr. Bob Huggard: We were told that it was coming.

Mr. Peter Tabuns: Were you asked about the role of the OEB at any point?

Mr. Bob Huggard: At that time, no—not to my knowledge.

Mr. Peter Tabuns: No? Don't you find that surprising? I mean, you're not an insignificant player in this province on these matters.

Mr. Bob Huggard: We were informed about the bill coming, and we have had an opportunity to consult and to provide advice to the government as we've gone over the years, so that evolved.

Mr. Peter Tabuns: Sorry; when you say "that evolved"—you were told the bill was coming. Were the provisions in the bill reviewed with the OEA?

Mr. Bob Huggard: We had talked to the government about giving our feedback, but the provisions were not ever discussed, no.

Mr. Peter Tabuns: Okay. Thank you very much. I appreciate your time.

The Chair (Mr. Grant Crack): Thank you. We shall move to the government. Mr. Delaney.

Mr. Bob Delaney: I have a number of clarification questions to your very interesting brief, for which I thank you. I'll ask the questions very quickly and, as we don't have a lot of time, if you could find a way to answer concisely that would be better. What or who do you define as a stakeholder?

Mr. David McFadden: I think stakeholders are the people of Ontario and all the industries in Ontario—I mean, broadly speaking.

Mr. Bob Delaney: Okay.

Mr. David McFadden: Our association would represent a good cross-section of the stakeholders, not the only stakeholders. There is obviously a very broad number of people and organizations who have an interest.

Mr. Bob Delaney: As we discuss how the process should evolve—a question I've asked before—should the process ever reach a conclusion?

Mr. David McFadden: You could have a consultation that would go on forever. What we indicated was that we thought that the kind of process that was

followed with the LTEP in 2013 seemed to meet most standards, and if you put that into place, along with the things we're recommending, we think that probably would cover the bases you really need to cover.

Mr. Bob Delaney: So just for clarification, then: If, as you said, predictability is important, in what time frame should an LTEP-type planning review reach a conclusion?

Mr. David McFadden: Well, you'd assume that it's more than one week and probably less than a year.

Mr. Bob Delaney: That's fine.

Mr. David McFadden: I understand your point of saying, "Well, how long can this go on?" I think you can time-limit it but, in the end, you have to put a process in place that allows for a proper input time by the various, as you said, stakeholders, the people who have got—

Mr. Bob Delaney: In your opinion, was the old IPSP process sufficiently responsive?

Mr. David McFadden: Are you going back to the original one with the Ontario Power Authority? Well, that's a whole other thing. Millions of dollars were spent by all kinds of stakeholders at the OPA with the first IPSP, and then it went to the Ontario Energy Board and was hoisted at the door of the board. A lot of organizations spent a lot of money and time. That, unfortunately, didn't work very well for anybody. I don't want to get into all the reasons, but that's what happened. So we felt that, even though the Electricity Act per se was not being followed in 2013, the process that was followed in 2013 was a solid process.

Mr. Bob Delaney: I get that.

In your brief, in recommendation number 2, you say, "The consultation provisions should expressly require consultation of, and the opportunity to receive input from, all interested stakeholders...." Given what you've just said, if, for example, tens of thousands of people apply to participate, is consultation expressly required of each of, say, tens of thousands or hundreds of thousands of people who define themselves as stakeholders?

Mr. Ian Mondrow: Sir, I think the proposals emphasize the need for transparency in public posting of not only the plan in draft form but the supporting documents, and a facility for anyone who is interested, who feels they have something to say, to provide that input. There are websites that do that very well; the Environmental Bill of Rights has a posting process that does that very well.

The government obviously will then have to digest the input. Logistically, that can be an issue. But to cut off the input at the minister's discretion is what the OEA is concerned about.

Mr. Bob Delaney: Okay. So in other words—

The Chair (Mr. Grant Crack): Thank you.

Mr. Bob Delaney:—consultation requires the receiving of the input from—

Mr. John Yakabuski: I think he said, "Thank you."

Mr. Ian Mondrow: The receiving of informed input.

Mr. Bob Delaney: Thank you.

The Chair (Mr. Grant Crack): I'd like to thank you, gentlemen, for coming before the committee this afternoon and sharing your information; we appreciate it.

To the members of the committee, I'd like to make a reminder to you all that on Thursday, February 25, which is tomorrow, the deadline for amendments is at 12 noon. Any questions or comments?

Mr. Peter Tabuns: Thank you.

The Chair (Mr. Grant Crack): You're quite welcome. I thank everyone for your participation this afternoon. Mr. Tabuns wants me to call this meeting adjourned.

The committee adjourned at 1723.

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First Session, 41st Parliament

Assemblée législative de l'Ontario

Première session, 41^e législature

Official Report of Debates (Hansard)

Monday 29 February 2016

Journal des débats (Hansard)

Lundi 29 février 2016

**Standing Committee on
General Government**

**Comité permanent des
affaires gouvernementales**

Energy Statute Law
Amendment Act, 2016

Loi de 2016 modifiant
des lois sur l'énergie

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 29 February 2016

Lundi 29 février 2016

*The committee met at 1400 in committee room 2.*ENERGY STATUTE LAW
AMENDMENT ACT, 2016
LOI DE 2016 MODIFIANT
DES LOIS SUR L'ÉNERGIE

Consideration of the following bill:

Bill 135, An Act to amend several statutes and revoke several regulations in relation to energy conservation and long-term energy planning / Projet de loi 135, Loi modifiant plusieurs lois et abrogeant plusieurs règlements en ce qui concerne la conservation de l'énergie et la planification énergétique à long terme.

The Chair (Mr. Grant Crack): I'd like to call the Standing Committee on General Government to order this afternoon. I'd like to welcome all members of the committee and the staff that are here with us today. We're here to deal with clause-by-clause consideration of Bill 135. I want to thank all parties for sending in their amendments on time.

I'm just going to ask, at this particular point, before we get under way: Are there any questions or comments concerning Bill 135 before we proceed?

There being none, I would ask members of the committee just for some consideration on what I'll be saying here.

Bill 135 consists of three sections and two schedules, and, because the substance of the bill is in the schedules, I suggest that we postpone consideration of the three sections and deal with the schedules first, which is the substance of the bill. I'm just wondering if we have unanimous consent that we could proceed that way. It seems to be common practice.

Mr. Bob Delaney: Agreed.

The Chair (Mr. Grant Crack): Thank you; we have unanimous consent to proceed in that manner.

Mr. John Yakabuski: It could be the last time ever.

The Chair (Mr. Grant Crack): Thank you all.

Having said that, we shall begin with section 1. There are no amendments.

Interjection.

The Chair (Mr. Grant Crack): Oh, we just postponed that. Sorry.

We're going to go to schedule 1. There are no amendments to section 1 and section 2.

I'll ask the committee, perhaps, to consider both at the same time. There's no opposition. I shall call for the vote. Shall schedule 1, section 1 and section 2, carry? I declare schedule 1, section 1 and section 2, carried.

We shall move to schedule 1, section 3. There is PC amendment 0.1, and I shall ask Mr. Yakabuski to read the amendment into the record, please.

Mr. John Yakabuski: I move that section 3 of schedule 1 to the bill be amended by adding the following subsection:

"(2) Section 16 of the act is amended by adding the following subsection:

"Prescribed properties

"(7) A regulation that prescribes properties of a prescribed person for the purposes of section 7 shall not include any properties with a surface area of less than 50,000 square feet."

The Chair (Mr. Grant Crack): Thank you, Mr. Yakabuski.

Any further discussion on the amendment? Mr. Delaney.

Mr. Bob Delaney: Thank you, Chair. The government recommends voting against this motion because the intent of the bill is to enable the implementation of the proposed large building energy and water reporting and benchmarking initiative through subsequent regulation, including details such as building types and sizes to be included in the initiative. The proposed amendment would seek to constrain the government's regulation-making authority, and the specifics of this motion would be addressed through regulation.

I am going to stop there, Chair, just in the event that my colleague wishes to add any other comment.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney.

Is there any further comment? Mr. McDonell.

Mr. Jim McDonell: The government has told us through a briefing that they didn't intend to force this on any groups smaller than 50,000, so we don't know why they wouldn't want to put that in the legislation if that was their intent. Not that we don't trust that they may not change their mind, but we're going on what they've told us.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell.

Mr. Delaney?

Mr. Bob Delaney: I appreciate the comment, Chair. On February 25, the Ministry of Energy posted, in very

plain language, a description of its proposed regulation to the Environmental Registry and the Regulatory Registry. The proposal does consider stakeholder feedback received during consultations held between January 2015 and June 2015, and it provides stakeholders with another opportunity to provide feedback.

In its posting, the Ministry of Energy is proposing that commercial and multi-unit residential buildings—in other words, greater than 50,000 square feet—be included, and that most industrial buildings, such as manufacturing facilities and all agricultural facilities, not be included in the initiative.

The Chair (Mr. Grant Crack): Further discussion?

Mr. John Yakabuski: Well, to his point, it was a proposed regulation. The regulations can be changed by order in council. Legislation would have to be dealt with differently, so why can't we codify this into legislation? It gives much more certainty to the commitment that it will be limited to buildings in excess of 50,000 square feet.

The Chair (Mr. Grant Crack): Further discussion?

Mr. Bob Delaney: Chair, the proposal will be posted for 45 days, and feedback received will be considered in the development of a subsequent regulation, pending the passage of the legislation before us.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call for the vote.

Mr. John Yakabuski: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

McDonell, Yakabuski.

Nays

Delaney, Dickson, Hoggarth, Martins, Tabuns.

The Chair (Mr. Grant Crack): I declare the motion defeated.

We shall move to PC motion 0.2. Mr. Yakabuski.

Mr. John Yakabuski: I move that section 3 of schedule 1 to the bill be amended by adding the following subsection:

“(2) Section 16 of the act is amended by adding the following subsection:

““Prescribed properties

“(7) A regulation that prescribes properties of a prescribed person for the purposes of section 7 shall not include any properties designed for commercial or industrial use.””

The Chair (Mr. Grant Crack): Further discussion?

Mr. Bob Delaney: The government recommends voting against this motion because the intent of the bill is to enable the implementation of the proposed large building energy and water reporting and benchmarking initiative through subsequent regulation, including details such as building types and sizes to be included in the initiative.

The proposed amendment seeks to constrain the government's regulation-making authority, and the specifics of this motion would be addressed through regulation.

The Chair (Mr. Grant Crack): Further discussion?

Mr. John Yakabuski: The purpose of this amendment was to afford some kind of proprietary protection to businesses whose stock in trade is in fact the water itself. If one of them had a method that reduced their costs by managing their water resources better, it would give them a competitive advantage over someone else. The water reporting portion of this will cause them to lose that competitive advantage.

You're now talking about, really, almost the copyright rights of a company. The intent of the legislation was to see less water being wasted in buildings: the way they run their washrooms, their cleaning, and everything else about how they conduct the management of water. These businesses use water in the production of the product they sell. To require them to report in the same way is in fact forcing them to reveal trade secrets.

The Chair (Mr. Grant Crack): Further discussion?

Mr. Bob Delaney: Chair, in my response to the previous amendment, I described a process that the Ministry of Energy had initiated regarding a very plain description of the proposed regulation on the Environmental Registry and the Regulatory Registry.

This proposal, of course, as I said in my previous response, will be posted for 45 days, with feedback received considered in the development of a subsequent regulation, which is pending the passage of this legislation.

The Chair (Mr. Grant Crack): Further discussion?

Mr. Jim McDonell: Yes, we've heard from some different manufacturers that by putting this information in, it actually gives their production output, which can be proprietary. It can be used by producers who are even outside the province—what their markets are, the amount. I don't think it's in the interests of the government to give that out.

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I know the member opposite talks about how there will be a chance for reporting this information on the Environmental Bill of Rights, but this has already been talked about. It's already been reported, and you see where they are ignoring it now. So what are the chances of them picking it up in 50 days of another hearing? It hasn't happened before, so it's not likely going to happen again. That's why they're worried.

The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney.

Mr. Bob Delaney: I find this very curious, because the regulation already excludes manufacturing facilities and agricultural facilities. Part of the reason for that is that the government listened to the manufacturing stakeholders, Chair.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. Yakabuski.

Mr. John Yakabuski: Not so, or they wouldn't have made submissions to this committee clearly indicating

their concerns. For the government to indicate that they have allayed those concerns is a big stretch, Chair, and they have not done that; otherwise, they would not have approached members of the committee, nor would they have made submissions to the committee to the contrary.

The Chair (Mr. Grant Crack): Thank you, Mr. Yakabuski. Mr. Delaney.

Mr. Bob Delaney: Chair, the government's proposal has been posted since public hearings. The government does consider feedback taken at committee.

We would now call for the question.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote.

Mr. John Yakabuski: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

McDonell, Yakabuski.

Nays

Colle, Delaney, Dickson, Martins, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion 0.2 defeated.

We shall move to PC motion 0.3, which is a new subsection 3(2), new subsection 16(7) of the Green Energy Act, 2009. Mr. Yakabuski.

Mr. John Yakabuski: I move that section 3 of schedule 1 to the bill be amended by adding the following subsection:

“(2) Section 16 of the act is amended by adding the following subsection:

““Prescribed properties

“(7) A regulation that prescribes properties of a prescribed person for the purposes of section 7 shall not include any properties with a surface area of less than 50,000 square feet or properties designated for commercial or industrial use.””

The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney.

Mr. Bob Delaney: The government recommends voting against this motion because the intent of the bill is to enable the implementation of the proposed large building energy and water reporting and benchmarking initiative through subsequent regulation, including details such as building types and sizes to be included in the initiative, and the proposed amendment, as I said before, seeks to constrain the government's regulation-making authority where the specifics of this motion would in fact be addressed through regulation.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. Just for clarification, Mr. Yakabuski, I believe when you read into the record the motion, “with a surface area of less than 50,000 square feet or properties,” I believe you said “designated” and I would think you had wanted to say “designed” for commercial.

Mr. John Yakabuski: Oh, sorry, just “designed.”

The Chair (Mr. Grant Crack): Thank you—just to clarify the record. There was some confusion on the other side.

Further discussion?

Mr. John Yakabuski: It is simply capturing what we had in our first two motions, and there's no need to discuss it further. We know the view of the government.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote.

Mr. John Yakabuski: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

McDonell, Yakabuski.

Nays

Colle, Delaney, Dickson, Martins, Tabuns.

The Chair (Mr. Grant Crack): I declare PC motion 0.3 defeated.

There are no amendments to schedule 1, section 3, so I shall call for the vote on the schedule.

Shall schedule 1, section 3, carry? Those in favour? Opposed? I declare schedule 1, section 3, carried.

We shall move to schedule 1, section 4. There are no amendments. Any discussion on schedule 1, section 4? Then I shall call for the vote.

Shall schedule 1, section 4, carry? Those in favour? Those opposed? I declare schedule 1, section 4, carried.

We shall deal with schedule 1 in its entirety, without amendment. Further discussion on schedule 1? There being none, I shall call the vote.

Mr. John Yakabuski: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

Colle, Delaney, Dickson, Martins, Tabuns.

Nays

McDonell, Yakabuski.

The Chair (Mr. Grant Crack): I declare schedule 1 carried.

We shall move to schedule 2. There is one amendment to schedule 2. It is NDP motion 1: Mr. Tabuns.

Mr. Peter Tabuns: Thank you, Chair—

Interjection.

The Chair (Mr. Grant Crack): What did I say? Schedule 2, section 1.

Mr. Peter Tabuns: Correct.

I move that clause 1(a.1) of the Electricity Act, 1998, as set out in section 1 of schedule 2 to the bill, be struck out and the following substituted:

“(a.1) to establish a transparent, independently-reviewable and evidence-based mechanism for energy planning.”

The Chair (Mr. Grant Crack): Further discussion? Mr. Tabuns.

Mr. Peter Tabuns: Mr. Chair, the intent of this bill, as written, is to end public participation in the shaping of our electricity system. It removes the check that is needed in terms of hearings at a tribunal: the ability of interveners to question decision-makers and to test evidence. With this amendment and others, I will try to curb some of the worst elements in this bill.

The Chair (Mr. Grant Crack): Further discussion?

Mr. Bob Delaney: Chair, the assertion that the member has made just doesn't hold water. We frankly and respectfully disagree with it.

The existing language provides an adequate statement of the government's intention to provide for a transparent and accountable planning process. Indeed, adding these words to the purpose of the act is unnecessary, as these principles are reflected in the existing language.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. Peter Tabuns: Yes, I'll just say, Chair, that when you eliminate tribunals and the ability to question witnesses and test evidence and put it into a forum of consultation, you substantially reduce public power and the ability of the public to hold a government to account. So I believe my comments were entirely justifiable, and I hope we can have a recorded vote when we go to this.

The Chair (Mr. Grant Crack): Further discussion? Mr. McDonell.

Mr. Jim McDonell: I'm just wondering why the government would be against an open, transparent process. I know that they were chastised for not following the regulations last fall in the AG's report, which said they didn't follow the existing process. So I guess you're just changing it so that you don't have to in the future, but that doesn't get away from, you know, when people in this province expect that something should be reviewed by the experts and the evidence used.

The Chair (Mr. Grant Crack): Further discussion?

Mr. Bob Delaney: I appreciate the question. The bill, in fact, does address transparency, evidence-based planning and independent agency input while maintaining government accountability. Let's just look at only four of the ways.

It requires key background information and data used in the development of the long-term energy plans to be made available to the public. I would refer the member to subsection 25.29(2)(b), section 7.

It requires that the IESO develop a technical report—subsection 25.29(3)—that would be considered in forming the basis of the long-term energy plan.

It requires that the minister undertake consultation with consumers, stakeholders and aboriginal commun-

ities and consider the input from these consultations when developing the long-term energy plan—again, subsection 25.29(4).

It provides that the IESO and OEB submit plans on how best to implement the long-term energy plan, and I would refer the member to subsections 25.30 and 25.31.

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I submit, Chair, that the concerns that the member has—I understand the reason he's asking, but those are concerns already addressed in the text of the bill.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. Mr. Yakabuski.

Mr. John Yakabuski: Yes, Speaker. I can answer my colleague's question as to why the government wouldn't want transparency in this bill, but I would have to be questioning their motives then.

The Chair (Mr. Grant Crack): Thank you for elevating me to Speaker, but I'll be the Chair of the committee at this time. I wouldn't want to take the Speaker's position.

Further discussion? Mr. Delaney.

Mr. Bob Delaney: No, we're good, Chair. You can call the question.

Mr. Peter Tabuns: Recorded vote, please.

The Chair (Mr. Grant Crack): No further discussion? There being none, there has been a request for a recorded vote, so I shall call the vote.

Ayes

McDonell, Tabuns, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare NDP motion number 1 defeated. As a result, there are no amendments to schedule 2, section 1. I will call for the vote on schedule 2, section 1, unless there's some discussion.

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): Okay, there has been a request for a recorded vote. I shall call the vote.

Ayes

Colle, Delaney, Dickson, Hoggarth, Martins.

Nays

McDonell, Tabuns, Yakabuski.

The Chair (Mr. Grant Crack): I declare schedule 2, section 1, carried.

Members of the committee, we have schedule 2, sections 2, 3, 4, 5 and 6. There are no amendments. Would the committee consider dealing with the schedule

sections in a block, in their entirety? If there's no opposition, then I will proceed.

Schedule 2, sections 2, 3, 4, 5 and 6: Any discussion? There being none, I shall call the vote. Those in favour of schedule 2, sections 2, 3, 4, 5 and 6? Those opposed? I declare schedule 2, sections 2, 3, 4, 5 and 6 carried.

We shall move to schedule 2, section 7. There is NDP motion number 2, which is an amendment to schedule 2, section 7, subsection 25.29(2) of the Electricity Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that subsection 25.29(2) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be amended by striking out “may include” in the portion before clause (a) and substituting “shall include”.

I just want to make that stronger, Mr. Chair.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Further discussion? Mr. Delaney.

Mr. Bob Delaney: Chair, I appreciate the intent of the member's motion. The government will recommend voting against it because the bill currently includes the words “may include” in subsection 25.29(2), rather than “shall include.”

The use of “may” provides the minister and the government with the necessary flexibility with respect to the objectives of the long-term energy plan and their balancing and their prioritization. This approach helps the legislation stand the test of time and allows it to be responsive as system planning priorities evolve.

One of the main challenges with the current Integrated Power System Plan—IPSP—process has been the very rigidity that this proposed motion would impose. The long-term energy plan approach to planning, while guided by the objectives in 25.29(2), has been designed to be a flexible process that's capable of responding to changing needs and an evolving energy sector.

The bill would require that all long-term energy plans be approved by cabinet, ensuring that government priorities are reflected.

The Chair (Mr. Grant Crack): Further discussion? Mr. McDonell.

Mr. Jim McDonell: I guess there's some concern here because previous legislation required them to take the advice of the IESO and the Ontario Energy Board, but of course they refused to do that. The result was the Green Energy Act and many of the acts that came through, as we saw last year in the Auditor General's report.

So of course, yes, we are worried that by allowing them supposedly to legalize the process, they're not listening—that's all it is: a way of legalizing that they don't listen to the experts.

The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney.

Mr. Bob Delaney: Chair, I believe in my previous answers that we've addressed this particular comment, and we would now ask that the question be called.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion

number 2. Those in favour? Those opposed? I declare NDP motion number 2 defeated.

We shall move to NDP motion number 3, which is an amendment to schedule 2, section 7, clause 25.29(2)(a) of the Electricity Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that clause 25.29(2)(a) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be amended by adding “and prudence” after “cost-effectiveness”.

I'm just making it somewhat more stringent, Mr. Chair.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. Delaney.

Mr. Bob Delaney: Chair, the government recommends voting against this motion. The provision as drafted in the bill accurately reflects the policy intent as a goal and objective of the long-term energy plan and how it relates to cost-effective energy supply, capacity, transmission and distribution.

In legal terms, the word “prudence” is uncertain and indeed unnecessary, given the existing language of the bill.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call for the vote on NDP motion number 3. Those in favour? Those opposed? I declare NDP motion number 3 defeated.

We shall move to NDP motion number 4, which is an amendment to schedule 2, section 7, new clause 25.29(2)(b.1) of the Electricity Act, 1998. Mr. Tabuns?

Mr. Peter Tabuns: I move that subsection 25.29(2) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be amended by adding the following clause:

“(b.1) the resilience of the electricity system to changes in economic, environmental and technical conditions, including the effects of climate change;”

Speaker—sorry, Chair—I think that this section needs to be more comprehensive, and thus I am putting forward this change.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Further discussion? Mr. Delaney.

Mr. Bob Delaney: Again, the government regrets that it can't support this particular clause for many of the same reasons as we recommended voting against the last one.

Now, Chair, the bill proposes an energy planning process that is flexible and capable of responding to changing technology and economic conditions, and indeed the proposed language is already reflected, implicitly or explicitly, in the existing bill. In reading this over, with all due respect, we just find it unnecessary.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call the vote on NDP motion number 4. Those in favour? Those opposed? I declare NDP motion number 4 defeated.

We shall move to NDP motion number 5, which is an amendment to schedule 2, section 7, a new clause 25.29(2)(b.2) of the Electricity Act, 1998. Mr. Tabuns?

Mr. Peter Tabuns: I move that subsection 25.29(2) of the Electricity Act, 1998, as set out in section 7 of

schedule 2 to the bill, be amended by adding the following clause:

“(b.2) the minimization of system vulnerability to risks due to catastrophic events and technology failures and avoidance of risks of extreme events;”

Speaker—sorry, it’s deep in me, Mr. Chair, it’s very deep—I would say that I’ve noticed a lack of preparation with regard to cyber security on the part of this government. I think that planning to take account of technology failures is something that needs to be included in the planning.

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The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney.

Mr. Bob Delaney: Again, Speaker—Chair. Now he’s got me doing it.

Mr. John Yakabuski: Obviously, there’s something going on here.

Mr. Bob Delaney: I know. That’s probably why we’re going to need a couple of regular breaks.

Chair, the bill already proposes an energy planning process that is flexible and capable as to the type of scenario sketched out by the member. The bill sets out a list of goals and objectives that the long-term energy plans may address, but the list is not intended to be exhaustive.

Although the goals and objectives that are identified as the system evolves can be included in the long-term energy plan, the bill already contains a goal and objective for the long-term energy plans that addresses the reliability of the electricity system, including resilience to the effects of climate change or random events or weather or catastrophic events.

Again, while appreciating the spirit within which the amendment is offered, the language in the bill already provides for the consideration of precisely the events helpfully offered by the member in his amendment. So the government suggests that amendment itself is unnecessary.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion number 5. Those in favour? Those opposed? I declare NDP motion number 5 defeated.

We shall move to NDP motion number 6, which is an amendment to schedule 2, section 7, clause 25.29(2)(d) of the Electricity Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that clause 25.29(2)(d) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be amended by striking out “cleaner” and substituting “renewable”.

Chair, as technology moves on and as the impact of climate change grows, it’s pretty apparent that we need to move beyond terms like “cleaner” and move to “renewable.” We need to be able to phase out fossil fuels entirely. It’s not just a question of being cleaner; they have to be zero carbon.

The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney.

Mr. Bob Delaney: The government does recommend voting against this motion, Chair. Again, the existing language adequately articulates the government’s intention with regard to clean energy. The use of the word “cleaner” can encompass renewable energy sources while maintaining flexibility to consider non-renewable but also clean energy sources, where required, to meet other system goals and objectives.

While the member’s amendment is offered in good faith, it doesn’t meet the intent of the bill in this particular case.

The Chair (Mr. Grant Crack): Further discussion? Mr. Tabuns.

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

No further discussion? There being none, I shall call the vote on NDP motion number 6.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare NDP motion number 6 defeated.

We shall move to NDP motion number 7, which is an amendment to schedule 2, section 7, clause 25.29(2)(e) of the Electricity Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that clause 25.29(2)(e) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be struck out and the following substituted:

“(e) the environmental impacts of different types of energy production, including discharges of contaminants, generation and management of wastes, effects on human and ecological health, and air emissions, taking into account any projections respecting the emission of greenhouse gases developed with the assistance of the IESO;”

Mr. Chair, there is a concern that the legislation, as written, doesn’t take into account all of the negative by-products of energy production. I think that if you’re going to have a plan that is actually environmentally sustainable, you have to have a wider perspective. This amendment is consistent with the wording provided by Mr. Mark Winfield and by the Canadian Environmental Law Association.

The Chair (Mr. Grant Crack): Thank you, sir. Mr. Delaney.

Mr. Bob Delaney: I think it’s important—the government, by the way, will recommend voting against this motion. The goals and objectives were not intended to substitute for the many environmental and other regulatory approvals that apply to energy projects. It’s also important to note that the language of the relevant provision

was developed with input from the Ministry of the Environment and Climate Change.

The government maintains the existing language adequately articulates the government's intentions in relation to air emissions that include greenhouse gases, and indeed the bill sets out a list of goals and objectives that the long-term energy plans may address, but additional goals and objectives and priorities that are identified as the system evolves can also be included in the long-term energy plan.

The Chair (Mr. Grant Crack): Thank you. Further discussion?

Mr. Peter Tabuns: A recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote. Any further discussion?

There being none, I shall call for the vote.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare NDP motion number 7 defeated.

We shall move to NDP motion number 8, which is an amendment to schedule 2, section 7, new subsection 25.29(2.1) of the Electricity Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that section 25.29 of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be amended by adding the following subsection:

"Requirements for goals

"(2.1) The goals referred to in subsection (2) shall prioritize obtaining all cost-effective conservation ahead of procurement or refurbishment of generation and shall prioritize renewable generation ahead of non-renewable generation to the extent reasonable, having regard to the relative costs and impacts of the alternative form of generation and shall prioritize combined heat and power ahead of conventional non-renewable generation, having regard to the relative costs and impacts of the alternative forms of generation."

Mr. Chair, the amendment is moved with the intent to put the most sustainable, least cost initiatives at the head of the line when it comes to planning and then in descending order of environmental impact and cost. I think that the bill would benefit from having a hierarchy of investments set out within it.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Mr. Delaney.

Mr. Bob Delaney: The government recommends voting against this motion. The bill currently proposes an energy planning process that is flexible and responsible to an evolving energy sector. As I listen to the amendment, it seems that the amendment begins with the conclusion and works backwards to whatever comes out

during the process. So, Chair, I would suggest that members support the existing language that more accurately articulates the government's intentions in respect of the development of the long-term energy plan.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. Further discussion?

Mr. Peter Tabuns: A recorded vote.

The Chair (Mr. Grant Crack): Mr. Tabuns has requested a recorded vote. If any other members are interested in calling a recorded vote for all votes, that would be fine as well. We know the process here.

There's no further discussion on NDP motion number 8? I shall call the recorded vote.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins, McDonnell, Yakabuski.

The Chair (Mr. Grant Crack): I declare NDP motion number 8 defeated.

We shall move to NDP motion number 9, which is an amendment to schedule 2, section 7, subsection 25.29(3) of the Electricity Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that subsection 25.29(3) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be struck out and the following substituted:

"Technical reports by IESO

"(3) The minister shall, before issuing a long-term energy plan under subsection (1), require the IESO to submit a technical report on the adequacy and reliability of electricity resources with respect to anticipated electricity supply, capacity, storage, reliability and demand and on any other related matters the minister may specify

"Requirements for report

"(3.1) The IESO's technical report shall include,

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"(a) recommendations for addressing any of the matters referred to in subsection (3); and

"(b) analysis of the costs and benefits of any such recommendations.

"Requirements for minister

"(3.2) The minister shall,

"(a) consider the technical report in developing the long-term energy plan; and

"(b) post the report on a publicly accessible government of Ontario website or publish it in another manner, before undertaking any consultations under subsection (4).

"Review by the board

"(3.3) Prior to issuance, the minister may refer all or one or more portions of a proposed long-term energy plan to the board for a review and report.

"Timing

“(3.4) A referral under subsection (3.3) may specify the time within which any report of the board must be submitted.

“Consideration and posting

“(3.5) The minister shall,

“(a) consider any report of the board in developing the long-term energy plan; and

“(b) post the report of the board on a publicly accessible government of Ontario website or publish it in another manner, before undertaking any consultations under subsection (4).”

Speaker—sorry, Chair, this amendment is moved to expand the transparency of the system.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Further discussion? Mr. Delaney.

Mr. Bob Delaney: Thank you, Chair. The government will recommend voting against this motion. Ultimately, energy policy is a matter for the government and, under this bill, cabinet makes the final decisions and cabinet is accountable for those decisions.

The existing language within the bill more accurately articulates the government’s intentions with respect to the development of a long-term energy plan in general. The technical report in particular and the existing language also clearly sets out the roles of the IESO and the OEB. Indeed, the bill already proposes an energy planning process that is flexible and responsive to an evolving energy sector. The existing proposals within the bill provide for interaction with the IESO and the OEB consideration of the input generated out of the long-term energy plan.

The Chair (Mr. Grant Crack): Thank you, sir. Further discussion? Mr. McDonell.

Mr. Jim McDonell: We support this because we just think the cost-benefit analysis, if it had been followed, would have gotten us out of a lot of the problems the government has created over the last nine years. You don’t have to take our word for it; you can take the Auditor General’s word year after year. Of course, in this upcoming year they’ve taken away her ability to review Hydro One, but one would wonder why you wouldn’t want an unbiased review of any energy plans we have.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Mr. Delaney?

Mr. Bob Delaney: Thank you, Chair. The proposed motion is also unnecessary as it is either explicit or implicit that the listed goals and objectives be considered in the long-term energy process along with the costs and benefits. In addition, under existing legislation the ministry can already refer any question regarding energy to the OEB.

The Chair (Mr. Grant Crack): Thank you. Further discussion?

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

There being no further discussion, I shall call for the vote on NDP motion number 9.

Ayes

McDonell, Tabuns, Yakabuski.

Nays

Colle, Delaney, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare NDP motion number 9 carried—or sorry, defeated. My apologies. I was distracted.

Mr. Peter Tabuns: I hope Hansard caught that.

The Chair (Mr. Grant Crack): My apologies to Hansard.

Mr. John Yakabuski: You’re messing up your chance to get Speaker.

Mr. Bob Delaney: Actually, that’s very helpful. It reminds us periodically to just take a deep breath, and let’s just take it one step at a time.

The Chair (Mr. Grant Crack): Absolutely. My apologies.

NDP motion number 9 was defeated.

We shall move to NDP motion number 10, which is an amendment to schedule 2, section 7, new subsection 25.29(3.1) of the Electricity Act, 1998. Mr. Tabuns?

Mr. Peter Tabuns: I move that section 25.29 of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be amended by adding the following subsection:

“Requirements for technical report

“(3.1) The technical report required under subsection (3),

“(a) shall also include a report on the methodology by which the IESO has assessed the adequacy and reliability of electricity resources; and

“(b) shall also include, and shall make publicly available, to the greatest practicable extent and in an accessible electronic format, the data employed by the IESO in assessing the adequacy and reliability of electricity resources.”

The Chair (Mr. Grant Crack): Further discussion?

Mr. Peter Tabuns: Again, the interest is greater transparency and an ability for the public to dive into the numbers that have been presented and critique them more thoroughly.

The Chair (Mr. Grant Crack): Further discussion?

Mr. Bob Delaney: The government will recommend voting against this motion because one wonders how many times and in how many ways we have to ask the IESO for a report. The proposed legislation already requires that the IESO submit a technical report to the minister, and the report would then be posted on a publicly accessible government of Ontario website.

The proposed legislation also ensures that the minister is required to post the long-term energy plan as well as any other information, such as key data and cost projections used in the development of the long-term energy plan, on a publicly accessible government of Ontario website.

With the greatest of respect to my colleague, the proposed amendment is unnecessary and redundant.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. Peter Tabuns: Just a recorded vote.

The Chair (Mr. Grant Crack): Mr. McDonell?

Mr. Jim McDonell: If we could rely on them to release the documents, I guess we wouldn't have any concern. But the people—not only the proponents that came before us but ourselves—are a little skeptical about seeing a report from the IESO in its entirety. We would like to see it before some of these decisions are made, so that we can test its validity with the experts in the field.

One thing I heard over the two days was that the experts were saying they're not being heard. Really, when you're doing something that affects the province to such a great extent, you want to make sure you have the latest technology, with the latest risks that are involved with that technology.

The Chair (Mr. Grant Crack): Any further discussion? There has been a request for a recorded vote. I shall call the vote.

Ayes

McDonell, Tabuns, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare NDP motion number 10 defeated.

We shall move to NDP motion number 11, which is an amendment to schedule 2, section 7, subsection 25.29(4) of the Electricity Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that subsection 25.29(4) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be amended by adding “public interest environmental organizations, environmental experts” after “transmitters”.

Chair, I feel that these individuals and groups should in fact be included in a statutory way in the process of consultation that the minister will have to follow.

The Chair (Mr. Grant Crack): Further discussion?

Mr. Bob Delaney: The government will recommend opposing this amendment because the proposed legislation ensures that there will be consultations as part of the long-term energy planning process and would include consumers and stakeholder groups across Ontario.

The legislation provides that other persons or groups could be included as part of the consultations. That makes the proposed amendment unnecessary, therefore, as the government expects interested groups and consumers to participate in the long-term energy process and to put forward their considerations, their suggestions and their advice.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. Peter Tabuns: A recorded vote, please.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote. As there's no further discussion, I shall call a vote on NDP motion number 11.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare NDP motion number 11 defeated.

We shall move to PC motion number 11.1, which is an amendment to schedule 2, section 7, subsections 25.29(3) and (4) of the Electricity Act, 1998. Mr. Yakabuski.

Mr. John Yakabuski: I move that subsections 25.29(3) and (4) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be struck out and the following substituted:

“Technical report by IESO

“(3) The minister shall, before issuing a long-term energy plan under subsection (1), require the IESO to submit a technical report on the adequacy and reliability of electricity resources with respect to anticipated electricity supply, capacity, storage, reliability and demand and on any other related matters the minister may specify.

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“Contents of report

“(3.1) The report shall include recommendations for addressing any of the matters mentioned in subsection (3) and an analysis of the costs and benefits of those recommendations.

“Minister's reaction to IESO's report

“(3.2) The minister shall,

“(a) consider the report in developing the long-term energy plan; and

“(b) post the report on a publicly accessible government of Ontario website or publish it in another manner, before undertaking any consultations under subsection (4).

“Review by board

“(3.3) Before issuing a long-term energy plan under subsection (1), the minister may,

“(a) prepare a proposed such plan and refer any or all of it to the board for a review and report; and

“(b) specify the time within which the board must review and report to the minister on anything that the minister refers to the board under clause (a).

“Minister's reaction to board's report

“(3.4) If the minister has referred anything to the board under subsection (3.3), the minister shall,

“(a) consider the report of the board in developing the long-term energy plan; and

“(b) post the report on the board on a publicly accessible government of Ontario website or publish it in

another manner, before undertaking any consultations under subsection (4).

“Consultation required

“(4) Before issuing a long-term energy plan under subsection (1), the minister shall consult with all members of the public who are interested in the matters being addressed by the long-term energy plan, including any consumers, distributors, generators, transmitters, aboriginal peoples or other persons or groups, and the minister shall consider the results of such consultation in developing the long-term energy plan.”

The Chair (Mr. Grant Crack): Thank you, Mr. Yakabuski. Just for clarification: Under “Minister’s reaction to board’s report,” just on the last portion of that motion, (b)—

Mr. John Yakabuski: Just read it again?

The Chair (Mr. Grant Crack): —I believe you had indicated “post the report on the board.” It’s “of the board.” Would that be fair?

Mr. John Yakabuski: Okay. I can reread that. What do you want me—

The Chair (Mr. Grant Crack): If you’d like to read that into the record.

Mr. John Yakabuski: Yes: “(b) post the report of the board on a publicly accessible government of Ontario website or publish it in another manner, before undertaking any consultations under subsection (4).”

The Chair (Mr. Grant Crack): Thank you very much.

Mr. John Yakabuski: I just have trouble with some of those long words like “on” or “of.”

The Chair (Mr. Grant Crack): Yes, it’s understandable.

Any further discussion? Mr. Delaney.

Mr. Bob Delaney: Many of the comments I made in response to the previous proposal by Mr. Tabuns would apply here. Most of the things that this amendment requests are already written into the legislation and, as such, the proposed amendment would not be necessary and doesn’t reflect the government’s policy intentions related to the long-term energy plan and its associated processes.

The Chair (Mr. Grant Crack): Thank you. Further discussion?

Mr. John Yakabuski: Definitely. I guess you can read your speaking notes if you want, but that’s not the case at all. All of the stakeholders who came here—this was one of the most critical sections that they felt needed to be amended. This would place greater restrictions on the power of the minister and also greater requirements on the minister to consult. The costing issue is in here, which is absent from the bill. There are serious, serious amendments in here that the government is choosing to simply ignore.

It sends to me the message that an awful lot of what might come back from the technical reports from the IESO and the OEB will be ignored in the future because the minister will have the power to do just that. This is one of the most critical sections of the bill that the

stakeholders are asking to be amended. If the government really had any intention of trying to produce a collaborative piece of legislation, this is where they would show some flexibility. So far, they’ve shown none. I’m not—I am actually surprised, because I expected different from the government on these particular sections.

These amendments in no way would weaken this legislation; in no way would it make it more difficult for the government to act. It would simply require greater diligence in conducting those actions, and I am quite frankly appalled that they are not accepting these amendments.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. Delaney.

Mr. Bob Delaney: The proposed legislation already ensures that the minister is required to post the long-term energy plan, as well as any other information such as key data and cost projections used in the development of the long-term energy plan, on a publicly accessible government of Ontario website.

The Chair (Mr. Grant Crack): Further discussion? Mr. McDonell.

Mr. Jim McDonell: I sat here and heard deputant after deputant worried—and with good reason, because they’ve seen in the past where the government has chosen to ignore the warnings from these bodies. These are, certainly, expert panels that are put together. We pay a lot of money for these people to be on the payroll, and we would expect that the minister should have to use them to make sure that further mistakes aren’t made, as we’ve seen in the past.

I know it’s easy—they didn’t like being named in the Auditor General’s report for ignoring or refusing to accept the recommendations of these boards, so now they just want to make sure these recommendations aren’t issued so that they can’t be accused of that in the future. But really, the government’s role is to get it right, and we want to make sure they get it right—at least to give them all the tools we can to do that.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on—

Mr. John Yakabuski: Recorded vote.

The Chair (Mr. Grant Crack): —PC motion number 11.1. There’s been a request for a recorded vote.

Ayes

McDonell, Tabuns, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare PC motion 11.1 defeated.

We shall move to PC motion 11.2, which is an amendment to schedule 2, section 7, subsection 25.29(6) of the Electricity Act, 1998. Mr. Yakabuski.

Mr. John Yakabuski: I move that subsection 25.29(6) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be struck out and the following submitted:

“Participation

“(6) The minister shall take steps to promote the participation of the persons or groups with whom the minister is required to consult under subsection (4), including,

“(a) scheduling one or more consultation meetings, where the minister considers it appropriate to do so, that the persons or groups are entitled to attend in person;

“(b) providing for the participation of persons or groups in consultations through electronic or other means not requiring personal attendance; and

“(c) ensuring that all forms of consultation adopted provide the opportunity to provide input into the planning process.

“Costing

“(6.1) Before issuing a long-term energy plan under subsection (1), the minister shall require the IESO to submit a report assessing the costs and benefits of the plan.”

The Chair (Mr. Grant Crack): Thank you, Mr. Yakabuski. On the introduction, I believe you said “and the following submitted.” It’s “substituted.” Would you agree with that?

Mr. John Yakabuski: Where—what did I say?

The Chair (Mr. Grant Crack): Right at the very start: “and the following submitted.” Right at the start: “I move” and the last word is “substituted.”

Mr. John Yakabuski: “Substituted.” Okay, yes.

The Chair (Mr. Grant Crack): Correct. I believe you had said “submitted.” Just for the record, it is “substituted.”

Mr. John Yakabuski: I must have a problem with my eyes.

The Chair (Mr. Grant Crack): Well, I didn’t ask for a correction on the previous motion, so I thought maybe on that one I would.

Further discussion on PC motion 11.2? Mr. Delaney.

Mr. Bob Delaney: I thank the member for his suggestion. While the government recommends voting against this motion, I think I’d just like to provide a little synopsis of why. The bill would require consultations with the public, stakeholders, First Nations and Métis in a variety of forums and mediums, which is something that the proposed motion requests.

As well, the proposed legislation is already designed to ensure that there are ample consultations as part of the long-term energy planning process and that such consultations would include consumers and stakeholder groups, as well as, as I previously mentioned, aboriginal peoples across Ontario. The legislation further provides that other persons or groups could be included as part of the government’s long-term energy plan consultations. The proposed amendment is therefore unnecessary.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Yakabuski.

Mr. John Yakabuski: Well, it doesn’t provide for what the member is saying. The minister “may” consult with any that he considers appropriate, given the matters being addressed by the long-term energy plan. That’s in the last motion. But in here, it’s about the costing, and there’s nothing in section 6 that requires the IESO to submit a report assessing the costs and benefits of the plan. This is about consultation and costing. There is nothing in their legislation about the costing. When a government has a \$308-billion debt thanks to their mismanagement, I think the costing is an important part of anything that they’re doing.

1500

The Chair (Mr. Grant Crack): Further discussion—

Mr. John Yakabuski: I forgot to say “their scandals,” as well.

The Chair (Mr. Grant Crack): Thanks for clarifying that.

Mr. Delaney?

Mr. Bob Delaney: Do you want to throw anything else in while you’re at it?

Mr. John Yakabuski: No.

Mr. Bob Delaney: Okay.

Not surprisingly, the government—among the reasons that we recommend voting against this motion is because the IESO would be required to submit a technical report with information in advance of the ministry launching a long-term energy plan, and one of the goals and objectives of the long-term energy plan is cost-effectiveness of energy supply and capacity, transmission, distribution, storage or any other matters that the minister specifies. The minister must consider the report in developing a long-term energy plan and post the report publicly.

The Chair (Mr. Grant Crack): Mr. McDonell?

Mr. Jim McDonell: When they’ve completed their long-term energy plan, why wouldn’t they submit it for costing? In the last Auditor General’s report, we’re seeing \$170 billion spent, and over the next 18 years we’re overspending for power. That’s even more than halfway through their debt that they’ve created here. That’s a lot of money. I know you can’t go down to zero—but if it had been priced out, surely they would have listened. I understand that maybe that information was mostly there and they chose not to listen.

Again, they don’t want anything on the record that would show how this really is a mess. You’re talking about close to \$200 billion in wasted resources of this province, in overspending. We just think that alone is enough to make sure that the public sees the costing in any future long-term energy plan.

The Chair (Mr. Grant Crack): Mr. Delaney?

Mr. Bob Delaney: Let me just reiterate again, Chair: The IESO would be required to submit a technical report with information in advance of the ministry launching a long-term energy plan, and one of the goals and objectives of the long-term energy plan is cost-effectiveness of energy supply and capacity, transmission, distribution and so on.

So I understand the spirit within which the request has been made, but the essence of the request is already contained within the draft of the bill.

The Chair (Mr. Grant Crack): Further discussion? Mr. Yakabuski?

Mr. John Yakabuski: This would very much strengthen that requirement. When you've been as irresponsible as this government—I spoke about mismanagement and scandals; I forgot to add “waste,” so we'll add that too. If you want a third reason why we need to have the costing in there, there's a third reason.

Chair, if we had proper oversight of costs, I'm pretty confident we would not have had the gas plants scandal because the requirement would have been that that had to be costed out before those decisions could have been made. Those decisions were made on a political whim, and that ended up costing \$1.1 billion.

If we get the wrong person in the minister's chair; if there's another George Smitherman who comes into this House and somebody makes him energy minister, that's exactly what we could get again: those kinds of decisions, based on wrong decisions and decisions that are based on politics. If an egomaniac comes in here, that's what we could get again. That's why need to have this protection in this bill.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the vote on PC motion 11.2.

Mr. John Yakabuski: Recorded.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

McDonell, Tabuns, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare PC motion 11.2 defeated.

Mr. Bob Delaney: Chair, this might be a good time to pause for a 10-minute break.

The Chair (Mr. Grant Crack): There has been a request for a 10-minute break. Do we have consensus on the committee to take that break?

Mr. John Yakabuski: Certainly, Chair. We're very co-operative. They've been so co-operative with us.

The Chair (Mr. Grant Crack): If there's no one opposed, we'll be back here at 3:15 p.m.

The committee recessed from 1505 to 1515.

The Chair (Mr. Grant Crack): All right. Let's get this meeting back to order and get back to business. We are back to order.

We shall commence with NDP motion number 12. This is an amendment to schedule 2, section 7, which is a new subsection, 25.29(6.1) of the Electricity Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: Mr. Chair, I'll be withdrawing. This was already addressed in the previous PC motion, which was defeated. Given its fate, there's no point in repeating it.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. NDP motion 12 is withdrawn.

We shall move to PC motion number 12.1, which is an amendment to schedule 2, section 7, subsections 25.30(1) and (2) of the Electricity Act, 1998. Mr. Yakabuski.

Mr. John Yakabuski: I move that subsections 25.30(1) and (2) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be struck out and the following substituted:

“Implementation directives

“To the IESO

“(1) Subject to the approval of the Lieutenant Governor in Council, the minister may issue a directive to the IESO requiring it to provide to the minister a plan respecting the implementation of the long-term energy plan by the IESO and any other related requirements, and the date by which the IESO must submit an implementation plan to the minister under subsection 25.31(1).

“To the board

“(2) Subject to the approval of the Lieutenant Governor in Council, the minister may issue a directive to the board requiring it to provide to the minister a plan respecting the implementation of the long-term energy plan in respect of matters falling within the board's jurisdiction, and the date by which the board must submit an implementation plan to the minister under subsection 25.31(2).”

Good amendment.

The Chair (Mr. Grant Crack): Any further discussion on the amendment? Mr. Delaney.

Mr. Bob Delaney: The government will recommend voting against this motion, again because the existing language in the bill reflects the government's intentions with respect to long-term system planning and resource planning.

Chair, the long-term energy plan process is intended to be flexible and efficient so that it can adapt to a rapidly changing energy environment. Introducing this different approach to planning wouldn't be consistent with government policy and it's not possible to fully anticipate how the changes, which the motion provides for, would affect the government's currently proposed planning processes.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. John Yakabuski: This would allow the minister to use either the OEB or the IESO to give advice on how to implement the plan, rather than telling those agencies how to do it. The OEB and the IESO are the experts, not the minister's office, with all due respect. They should be able to make recommendations on implementation that save money and improve the system. Why would the minister not want to listen to experts?

It just amazes me, Chair. We're over halfway through these amendments and not one of them has been accepted. The government, in its perfection, believes

there's nothing that can be done to improve this bill? How arrogant that is.

The Chair (Mr. Grant Crack): Further discussion? Mr. McDonell.

Mr. Jim McDonell: Just to the comment of questioning the government motives: I guess that's something that we certainly are doing, because we've seen the results of their motives in the last number of years. There was a lineup of people—I've never seen a bill where, with the exception of I think two of them who were hand-picked, everybody was against or had amendments for this bill. We're concerned that the government would move ahead without getting expert advice or being required to get expert advice. I know that should be the goal of the minister and we shouldn't question the motives, but that's not the results we've seen.

1520

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. Delaney?

Mr. Bob Delaney: Thank you, Chair. As I have said numerous times during these proceedings this afternoon, the government is already required to consult with the IESO and others and, as such, the language offered in the amendment, however well-intentioned, is already included in the essence of the bill.

We would now call for the question.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call the vote on PC motion 12.1.

Mr. John Yakabuski: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

McDonell, Tabuns, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare PC motion 12.1 defeated.

We shall move to NDP motion number 13, which is an amendment to schedule 2, section 7, new subsection 25.30(2.1) of the Electricity Act, 1998. Mr. Tabuns?

Mr. Peter Tabuns: I move that section 25.30 of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be amended by adding the following subsection:

“Requirement for review

“(2.1) The minister may not issue an implementation directive to the board under subsection (2) unless the long-term energy plan that is the subject of the directive has been reviewed and approved by the board, and the board shall not implement an implementation directive without such a review and approval having taken place.”

The Chair (Mr. Grant Crack): Mr. Tabuns?

Mr. Peter Tabuns: Chair, I've maintained that this act is, in the end, going to substantially reduce the ability of the public to question and hold the government to account. It is going to remove the ability of the board to actually act in the interests of the public.

This amendment is proposed as a way of limiting the power of the government such that it has to pay attention to the board's ruling on the validity or lack of validity of a plan that has come forward, one that the board should actually be reviewing before it is implemented.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. Delaney.

Mr. Bob Delaney: Thanks, Chair. The bill, as tabled, proposes that implementation directives would be reviewed and approved by cabinet prior to going to the Ontario Energy Board, not reviewed and approved by the Ontario Energy Board. These directives are not ministers' directions but are subject to the approval of cabinet.

The bill is intended to increase efficiency and flexibility in planning, and the proposed amendment would shift the authority to approve the long-term energy plan back to the Ontario Energy Board, which is counter to the government's intentions in terms of the approval process for the long-term energy plan.

The existing bill would ensure that a proposed long-term energy plan and related directives be informed by, and provide for, robust and transparent consultation processes with Ontarians and with stakeholders.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. Any further discussion?

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There being none, there has been a request for a recorded vote. I shall call the vote on NDP motion number 13.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare NDP motion number 13 defeated.

We shall move to PC motion number 13.1, which is an amendment to schedule 2, section 7, subsections 25.31(1) and (2) of the Electricity Act, 1998. Mr. Yakabuski.

Mr. John Yakabuski: I move that subsections 25.31(1) and (2) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be struck out and the following substituted:

“Implementation plans

“By the IESO

“(1) On the issuance of a directive under subsection 25.30(1), the IESO shall, within the time specified in the directive, submit to the minister an implementation plan containing an outline of the steps the IESO intends to take respecting the implementation of the long-term

energy plan by the IESO and any other related requirements including, if required, the development of processes for entering into procurement contracts, processes for selecting transmitters, or both.

“By the board

“(2) On the issuance of a directive under subsection 25.30(2), the board shall, within the time specified in the directive, submit to the minister an implementation plan containing an outline of the steps the board intends to take respecting the implementation of the long-term energy plan in respect of matters falling within the board’s jurisdiction.

“Publication

“(2.1) On receiving an implementation plan from the IESO under subsection (1) or an implementation plan from the board under subsection (2), the minister shall post it on a publicly accessible government of Ontario website or publish it in another manner.”

That’s another good amendment.

The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney.

Mr. Bob Delaney: I think we’ve already had this discussion. The bill already currently proposes that implementation directives be reviewed and approved by cabinet prior to going to the IESO or the Ontario Energy Board. The government is already proposing to post relevant information related to the long-term energy plan, and the underlying data on which it relies in developing the long-term energy plan, on a publicly accessible website.

I appreciate the helpful spirit in which my colleagues offer the amendment, but it is unnecessary. As such, the government would recommend voting against this motion.

The Chair (Mr. Grant Crack): Further discussion?

Mr. Jim McDonell: This amendment requires, first of all, the implementation plans—and where they disagree with it—to be published so the experts in the field can review. A lot of assumptions are made, and sometimes assumptions can turn sour. They need to be vetted through the expert community. This makes sure that they have the opportunity to do that. The minister, then, is responsible to say why he’s not agreeing with the IESO and the OEB’s vetted plans. I think that’s only fair.

We’ve seen cases where this has been ignored. Again, I think you want to listen to the experts. If I go back to before I was elected here, there was a large publication that came out from the association of professional engineers identifying why the Green Energy Act wouldn’t work and why it wouldn’t be so successful. Obviously, that was a large group of experts—the same experts that designed the systems—that was not listened to, and now we’re in a huge mess because of it. That publication was freely accessible, published to all engineers in the province, and the IESO could have referred to that document with some of their reasons why this government shouldn’t move ahead.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell.

Mr. Yakabuski?

Mr. John Yakabuski: Yes, to pick up on my colleague Mr. McDonell’s assertions here—he’s 100% correct. It just amazes me that almost 13 years into their mandate, this government—of course, all of the independent agencies out there would agree with the government that they haven’t made any mistakes. That seems to be the attitude of this government: They don’t make mistakes; therefore, they don’t need to have anybody checking their work. If you had the record that this gang has had for almost 13 years, particularly on this file—the electricity file has been the most mismanaged and politicized, scandal-ridden file that this government has possession of. And now, they want to remove the experts from the planning process. They want to take out the experts, the only people out there that could probably protect them from themselves—meaning, the government. I find it just absolutely mind-boggling. What could their motives possibly be?

This bill—there’s not a single amendment even proposed by the government, Chair. I’ve never sat in on a bill, in my time here, where there have been no amendments. There may have been bills; I’ve never sat in on one where there have been no amendments from the government after the processes of consultation, after the deputants have spoken at committee, and after the submissions have been made in written form. This is the only time I can recall that the government has not accepted or even proposed a single amendment themselves.

1530

Do they feel, after 13 years of waste, mismanagement and scandal, that they’ve reached the pinnacle of perfection? That’s what I don’t understand, Speaker. We’ve got a list of good amendments by both us and the third party, and they’re just turning a deaf ear to us.

The Chair (Mr. Grant Crack): Thank you. Further discussion?

There being none, I shall call the vote on PC motion 13.1. Those in favour? Those opposed? I declare PC motion 13.1 defeated.

We shall move to PC motion 13.2, which is an amendment to schedule 2, section 7, subsections 25.31(5) and (6) of the Electricity Act, 1998. Mr. Yakabuski?

Mr. John Yakabuski: Thank you, Chair.

The Chair (Mr. Grant Crack): You’re welcome.

Mr. John Yakabuski: I just have to get over the sadness of the last one being defeated.

The Chair (Mr. Grant Crack): Deep breaths.

Mr. John Yakabuski: Yes.

I move that subsections 25.31(5) and (6) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be struck out.

I have a feeling we’re going to strike out again.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Yakabuski. Further discussion? Mr. Delaney?

Mr. Bob Delaney: Thank you, Chair. I am just going to ignore all of the baseball double entendres that I’m being tempted with.

The government recommends voting against the motion because the bill more accurately provides for the government's policy intention that the minister be required to review the implementation plans of both the IESO and the OEB to ensure they comply with the applicable Lieutenant Governor in Council-approved directive and to ensure that the government objectives align with the implementation plans put forward by the IESO and the OEB.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. McDonell?

Mr. Jim McDonell: I've heard every delegation that came through here. I know the government chose to disregard the existing legislation and we have to pay the bill, or pay the piper, as we say in Glengarry. But they all agreed that it's removing any of the oversight they had, and they wanted these amendments put in just so that we don't face the same problem again.

Actually, we have to go a step further—if we could just make it in some way legal that they have to follow the legislation because we've clearly seen in the past that they haven't. All of the experts were very clear that this removes any requirement for the experts' advice to not only be received by the ministry, but it needs to be vetted so that the various opinions can be heard.

Really, the scientific process is about challenging your scientific opinions in the face of the expert advice that's out there. Collaboratively, you come up with a better answer. I think that's the whole thing: You have to come up with the best solution. Nobody truly knows what's happening tomorrow, but you want to make sure that at least the top experts in the field have a chance to collaborate and come up with a plan because our time in Ontario is becoming very short. We're going to be all bankrupt before we can have any impact on this cause of energy use or even climate change.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Further discussion? There being none, I shall call for the vote for PC motion 13.2.

Mr. John Yakabuski: Recorded.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote. I shall call the vote.

Ayes

McDonell, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare PC motion 13.2 defeated.

Mr. John Yakabuski: I already had that down.

The Chair (Mr. Grant Crack): Did you?

We shall move to PC motion 13.3, which is an amendment to schedule 2, section 7, subsection 25.32(1) of the Electricity Act, 1998. Mr. Yakabuski?

Mr. John Yakabuski: I move that the definition of "implementation plan" in subsection 25.32(1) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be struck out and the following substituted:

"'implementation plan' means an implementation plan submitted by the IESO to the minister under subsection 25.31(1), including any amendments to it that the IESO submits to the minister."

The Chair (Mr. Grant Crack): Thank you, Mr. Yakabuski. Further discussion? There being none, I shall call for the vote on PC motion 13.3. Those in favour of PC motion 13.3—

Mr. John Yakabuski: Recorded vote.

The Chair (Mr. Grant Crack): I'll allow the recorded vote. I didn't see any hands go up. Recorded vote on PC motion 13.3.

Ayes

McDonell, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare PC motion number 13.3 defeated.

We shall move to PC motion 13.4, which is an amendment to schedule 2, section 7, subsection 25.32(2) of the Electricity Act, 1998. Mr. Yakabuski.

Mr. John Yakabuski: Yes, Chair. Could you give us a little more time for discussion after we read the motion just so my colleague and I can clarify a couple of things, because you've moved on so fast—we were surprised that Mr. Delaney had nothing to say at that point and we were still discussing it ourselves and didn't have a chance to make our own comments on that motion. Thank you very much.

The Chair (Mr. Grant Crack): I did call, Mr. Yakabuski, twice for discussion and I didn't receive anything. I just try to be fair with all parties involved.

Mr. John Yakabuski: I recognize that. I'm not challenging you, Chair. I'm just saying that we were in deep discussions ourselves and we didn't hear that.

The Chair (Mr. Grant Crack): I understand.

Mr. John Yakabuski: I'm ready for 13.4.

The Chair (Mr. Grant Crack): Yes, if you would like to read that into the record, that would be lovely.

Mr. John Yakabuski: I move that subsection 25.32(2) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be amended by striking out the portion before clause (a) and substituting the following:

"Entering into contracts

"(2) The IESO shall, if required to do so under a directive issued under subsection (5), and may, if an implementation plan so contemplates, enter into contracts for the procurement of,"

The Chair (Mr. Grant Crack): Thank you. Further discussion? Once again, further discussion?

Mr. John Yakabuski: It's a technical amendment, Speaker, but I think one that would improve the bill.

The Chair (Mr. Grant Crack): That's the sixth time today I have been called Speaker. I really appreciate it.

Mr. Delaney.

Mr. John Yakabuski: It is actually the seventh.

Mr. Bob Delaney: Thank you, Chair. Maybe one day they will call more of us ministers.

The proposed bill, as currently drafted, more accurately reflects the government's policy intention related to the long-term energy plan and its processes, including the minister's and the government's interactions with the IESO. The current bill already provides that the minister is required to review the IESO's implementation plan to ensure it complies with the Lieutenant Governor in Council-approved directive and to ensure the government objectives align with the implementation plan put forward by the IESO.

The Chair (Mr. Grant Crack): Thank you, Mr. Delaney. Further discussion? There being none, I shall call for the vote on PC motion 13.4.

Mr. John Yakabuski: Recorded.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote. Those in favour of PC motion 13.4?

Ayes

McDonell, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare PC motion 13.4 defeated.

We shall move to PC motion 13.5, which is an amendment to schedule 2 of section 7, subsection 25.32(3) of the Electricity Act, 1998. Mr. Yakabuski.

Mr. John Yakabuski: I move that subsection 25.32(3) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be struck out and the following substituted:

"Transmitters

"(3) Despite clause (2)(d), the IESO is not required to enter into a contract under subsection (2) in order to select a transmitter, unless a directive issued under subsection (5) provides otherwise."

The Chair (Mr. Grant Crack): Thank you, Mr. Yakabuski. Further discussion on PC motion 13.5? Mr. Delaney.

Mr. Bob Delaney: Chair, the long-term energy planning process is intended to be flexible and efficient so that it can adapt to a rapidly changing energy environment. Introducing a reduction of the government's authority over IESO transmission procurement processes at this stage could have material, unanticipated consequences and is not in accord with the government's policy. The proposed motion could therefore interfere

with the government's proposed policies in relation to its proposed long-term energy plan and ongoing procurement processes and could reduce overall planning and procurement efficiency.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Mr. Yakabuski.

Mr. John Yakabuski: This weakens the language in the clause so that an implementation plan can serve as a directive as it is written by the IESO in the first place. Again, this is just a further throttling back of the minister's unfettered powers under this bill, unamended.

1540

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call the vote on PC motion 13.5.

Mr. John Yakabuski: Recorded.

The Chair (Mr. Grant Crack): There's been a request for a recorded vote.

Ayes

McDonell, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare PC motion 13.5 defeated.

We shall move to NDP motion 14, which is an amendment to schedule 2, section 7, proposing new subsection 25.32(5.1) of the Electricity Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that section 25.32 of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be amended by adding the following subsection:

"Requirements re directives

"(5.1) The minister shall not issue a directive under subsection (5) with respect to a procurement contract unless a business case has been prepared and published with respect to the proposed subject of the procurement contract including,

"(a) an analysis of the projected costs, benefits and risks; and

"(b) the data and evidence upon which the analysis was based."

Again, this is meant to make the whole process more transparent and accountable, and, frankly, given our experience with the smart meters, to force the government to provide an analysis of costs, benefits and risks.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Mr. Delaney?

Mr. Bob Delaney: Chair, in support of open government, open dialogue and open data, Bill 135 would require publication of the long-term energy plan and other key information used in its development on a publicly accessible government of Ontario website. Indeed, directives and directions applicable to the IESO are published on the IESO website and are publicly available.

This practice would be continued in respect of cabinet-approved directives issued by the minister to the IESO on a going-forward basis, and the government would provide cost analysis, analysis around consumer impacts and any other analysis needed on the policy issue ahead of issuing the directive.

While I thank my colleague for his suggestion, the government does recommend voting against this motion.

The Chair (Mr. Grant Crack): Further discussion? Mr. McDonell.

Mr. Jim McDonell: I guess the concern is that it's fine to publish this long-term energy plan after it's enacted and after the decision has been made, but we want to make sure that the experts have a chance, before it's poured in concrete, to provide information that we hope the ministry will listen to.

I know that under the previous version of the statutes, they were required to and they did not do it, but that should be reason alone that we're worried that they aren't considering the experts. Clearly, the province is in a mess and I don't think there's anybody to blame but this government that's been there for 12 years and has done—the most expensive power in North America, taking us from one of the cheapest rates in the continent—really, it was an advantage to us and fostered a lot of manufacturing—to a time when everybody is leaving.

The Chair (Mr. Grant Crack): Further discussion? Mr. Yakabuski.

Mr. John Yakabuski: Yes, it's a good amendment by the third party, and we're certainly going to support it. As my colleague says, everything in this bill is after the fact. Essentially, what it amounts to is that after the consumer has been fleeced, they'll be notified that they're being fleeced. We think they should know what the costs are—

Mr. Peter Tabuns: In advance.

Mr. John Yakabuski: In advance. We certainly support the NDP on this amendment.

The Chair (Mr. Grant Crack): Any further discussion?

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There being none, there has been a request by Mr. Tabuns for a recorded vote. I shall call the vote on NDP motion 14.

Ayes

McDonell, Tabuns, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare NDP motion 14 defeated.

We shall move to PC motion 14.1, which is an amendment to schedule 2, section 7, subsection 25.32(6) of the Electricity Act, 1998. Mr. Yakabuski.

Mr. John Yakabuski: I move that subsection 25.32(6) of the Electricity Act, 1998, as set out in section

7 of schedule 2 to the bill, be struck out and the following substituted:

“Priority of directive

“(6) In the event of a conflict, a directive issued under subsection (5) prevails over any long-term energy plan issued under section 25.29, directive issued under section 25.30 or implementation plan.”

The Chair (Mr. Grant Crack): Further discussion? Mr. Yakabuski.

Mr. John Yakabuski: This amendment reserves the minister's power to issue a directive to override an LTEP or implementation plan. Again, we're just looking for some control over the minister—not control, but just some reasonable obstacles to absolute control, because absolute control is what has gotten us into this mess. And a mess it is, Chair; a mess it is.

We're just trying to, in some ways, mitigate the damage that could be done by this government by bringing in this bill and actually codifying in legislation the power to mess it up.

I thought before I used the word “mess,” because I didn't want you saying that it was unparliamentary.

The Chair (Mr. Grant Crack): Thank you. Mr. Delaney?

Mr. Bob Delaney: Heaven forbid that my colleague would say anything unparliamentary, Chair.

The proposed motion appears to be similar in intent to what is currently proposed by the government in relation to transmission procurement by the IESO, pursuant to the proposed section 25.32(6). However, in reading the proposed amendment, it's the absence of clarity of the language that's of concern. As a consequence, the government urges defeat of this motion.

The Chair (Mr. Grant Crack): Further discussion on PC motion 14.1? There being none, I shall call the vote on PC motion 14.1.

Mr. John Yakabuski: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

McDonell, Tabuns, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare PC motion 14.1 defeated.

We shall move to PC motion 14.2, which is an amendment to schedule 2, section 7, subsection 25.32(11) of the Electricity Act, 1998. Mr. Yakabuski.

Mr. John Yakabuski: Thank you, Chair.

The Chair (Mr. Grant Crack): You're welcome.

Mr. John Yakabuski: I move that subsection 25.32(11) of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be struck out and the following substituted:

“Transition, ongoing power to amend, revoke

“(11) The Lieutenant Governor in Council may amend or revoke a direction continued under subsection (9) or (10).”

The Chair (Mr. Grant Crack): Thank you, sir. Any further discussion on PC motion 14.2?

Mr. John Yakabuski: This amendment does not allow the minister to adjust or revoke a direction dealing with the LTEP before the implementation plan is put forward by the IESO. It still keeps the new layer of cabinet approval but does not allow the minister to change the implementation plan put forward by the IESO on a whim.

This is what we’re trying to mitigate: that temptation on the part of these ministers, in keeping with their records of the past 12 years, to just govern on a whim, without thinking about the consequences.

Cabinet approval is the only way any aspect of the implementation plan can change under this amendment. So we’re not taking away the power of cabinet. We’re just trying to make sure that it’s exercised with discretion, and with due diligence and due consideration to the experts.

The Chair (Mr. Grant Crack): Thank you, Mr. Yakabuski. Mr. Delaney?

Mr. Bob Delaney: Chair, our analysis shows that the motion is consequential to the PC motion 13.2, which was defeated. The member can either withdraw it, or we can ask whether it’s in order, or we can vote on it. I’m indifferent either way.

Currently, the legislation ensures the minister’s power to amend or revoke previously issued directions continues to exist until the first IESO implementation plan is approved by the minister, after which time only the Lieutenant Governor in Council could amend or revoke these directions. The proposed amendment only provides the Lieutenant Governor in Council with the power to amend or revoke previously issued ministerial directions, and therefore the proposed motion would seek to constrain the minister’s authority to independently amend or revoke directions up to the date that a ministerial-approved implementation plan is issued by the IESO.

1550

As a consequence, Chair, the government recommends voting against this motion. Previous directions were sent by the minister, and it’s the government’s policy, as set out in the proposed bill, that the minister’s authority to amend or revoke directions should continue until the first IESO implementation plan is approved by the minister.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call the vote on PC motion 14.2. Those in favour of PC motion 14.2?

Mr. John Yakabuski: Recorded.

The Chair (Mr. Grant Crack): That one’s a little bit too late.

Mr. John Yakabuski: Okay.

The Chair (Mr. Grant Crack): There was a good hand up there for a few seconds. I was just waiting for you to—so, respectfully, I’ll pass.

Those opposed? I declare PC motion 14.2 defeated.

We shall move to NDP motion number 15, which is an amendment to schedule 2, section 7, section 25.32.1 of the Electricity Act, 1998. Mr. Tabuns?

Mr. Peter Tabuns: I move that section 25.32.1 of the Electricity Act, 1998, as set out in section 7 of schedule 2 to the bill, be struck out and the following substituted:

“Application of Environmental Assessment Act

“25.32.1 Every long-term energy plan under this part and every related undertaking is an undertaking for the purposes of the Environmental Assessment Act and is subject to the requirements of that act regarding undertakings.”

The Chair (Mr. Grant Crack): Thank you. Mr. Tabuns.

Mr. Peter Tabuns: Chair, this was the situation prior to amendments brought in by environment minister Laurel Broten in 2006. At the time that she brought forward her changes to exclude coverage by the Environmental Assessment Act, she pointed out to the Legislature and the people of Ontario that their environmental concerns would be dealt with at the Ontario Energy Board through hearings. Not only has the Environmental Assessment Act been dealt out, but now, through this act, the Ontario Energy Board’s opportunity to assess environmental impacts is being removed.

I believe that we should go back, provide for an environmental assessment and ensure that the environment is protected.

The Chair (Mr. Grant Crack): Mr. Delaney.

Mr. Bob Delaney: The IPSP was also exempt from the Environmental Assessment Act.

Interjection.

Mr. Bob Delaney: Individual projects coming out of the long-term energy plan would need to go through an environmental approval process as needed. Individual projects will need to get appropriate approvals, whether they be environmental or regulatory, as needed. The existing language provides an adequate statement of the government’s intention to provide an exception for the long-term energy plan and related instruments to the application of the definition for “undertaking” under the Environmental Assessment Act.

As such, Chair, the government recommends voting against this motion.

The Chair (Mr. Grant Crack): Further discussion?

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There being none, there has been a request for a recorded vote.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare NDP motion 15 defeated.

There are no amendments to schedule 2, section 7. Is there any discussion on schedule 2, section 7? There being none, I shall call the vote.

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There is a request for a recorded vote on schedule 2, section 7.

Ayes

Colle, Delaney, Dickson, Hoggarth, Martins.

Nays

McDonell, Tabuns, Yakabuski.

The Chair (Mr. Grant Crack): I declare schedule 2, section 7, carried.

Schedule 2, section 8, section 9, section 10 and section 11: There are no amendments. Does the committee wish to group that into one vote?

Mr. Mike Colle: Bundle.

The Chair (Mr. Grant Crack): I don't hear opposition. Is there any discussion on schedule 2, sections 8, 9, 10 and 11? There being none, I shall call the vote on schedule 2, section 8, section 9, section 10 and section 11. Those in favour? Those opposed? I declare schedule 2, section 8; schedule 2, section 9; schedule 2, section 10; and schedule 2, section 11, all carried.

I shall move to schedule 2, section 12. We have PC motion 15.1, which is an amendment to schedule 2, section 12, section 2.1 of the Ontario Energy Board Act, 1998. Mr. Yakabuski?

Mr. John Yakabuski: Thank you, Chair.

"I move that section 2.1 of the Ontario Energy Board Act, 1998, as set out in section 12 of schedule 2 to the bill, be struck out and the following substituted:

"Board objectives, implementation plans

"2.1 In exercising its powers and performing its duties under this or any other act, the board shall be guided by the objective of facilitating the implementation of any directives issued under subsection 25.30(2) of the Electricity Act, 1998 in accordance with the implementation plans submitted by the board under subsection 25.31(2) of that act, including any amendments to them submitted by the board."

It's another good amendment.

The Chair (Mr. Grant Crack): Further discussion? Mr. Delaney?

Mr. Bob Delaney: This motion is consequential to PC motion 13.2, which was defeated. I have already spoken to the rationale of that and similar motions, and the government would recommend voting against this motion.

The Chair (Mr. Grant Crack): Further discussion? Mr. Yakabuski?

Mr. John Yakabuski: We always hope that there will be an epiphany on the other side and that you may change your mind, because this looks like—from the

point of amendments, it may be the last chance we have to remove the minister's veto power over the implementation plans submitted by the IESO. So the amendment was put in there for very good reason.

I say to my friend on the other side that, hopefully, on your way to Damascus something might have happened.

Mr. Mike Colle: We don't want to go to Damascus with all that bombing going on.

Mr. John Yakabuski: We would hope that—it was a last-chance amendment—you might, in some way, recognize the validity of the concerns that have been raised to this bill by the opposition and stakeholders in the industry. Alas, you have chosen to ignore it once again. We recognize that this is a majority committee of which the Liberals hold that power. Just as the minister is going to have veto power over the industry, the stakeholders and the technical experts when this bill passes into law, you have the veto power at this committee, and it looks like you are about to exercise it—regrettably.

The Chair (Mr. Grant Crack): Thank you. Further discussion? There being none, I shall call for the vote on PC motion 15.1. Those in favour of PC motion 15.1?

Mr. Jim McDonell: Recorded.

Interjections.

The Chair (Mr. Grant Crack): I heard a mumble but I didn't really hear it, so I'm going to allow for the recorded vote, much to the chagrin of the Clerk. Let's be a little bit more prompt. Recorded vote.

Ayes

McDonell, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare PC motion 15.1 defeated.

There are no amendments to schedule 2, section 12. Is there any further discussion on that section and schedule? There being none, shall—

Mr. John Yakabuski: Recorded.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote on schedule 2, section 12. I shall call the vote.

1600

Ayes

Colle, Delaney, Dickson, Hoggarth, Martins.

Nays

McDonell, Tabuns, Yakabuski.

The Chair (Mr. Grant Crack): I declare schedule 2, section 12, carried.

There are no amendments to schedule 2, section 13. Any discussion on schedule 2, section 13? There being none, I shall call the vote.

Shall schedule 2, section 13, carry? Those in favour? Those opposed? I declare schedule 2, section 13, carried.

We have NDP motion number 16, which is an amendment to schedule 2, section 14. It's a new subsection 28.6.1(1.1) of the Ontario Energy Board Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that section 28.6.1 of the Ontario Energy Board Act, 1998, as set out in section 14 of schedule 2 to the bill, be amended by adding the following subsection:

"Requirements re directives

"(1.1) The minister shall not issue a directive under subsection (1) with respect to the construction, expansion or re-enforcement of a transmission system unless a business case has been prepared and published including,

"(a) an analysis of the projected costs, benefits and risks; and

"(b) the data and evidence upon which the analysis was based."

Chair, as you're well aware, the government spent large amounts of money on the transmission line to nowhere in the Niagara Peninsula. I don't believe that an adequate case was done at the beginning. Certainly the Ontario Energy Board had objections to what was brought forward, yet the government proceeded. This amendment is meant to protect ratepayers against yet another foolish decision around transmission lines.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Mr. Delaney.

Mr. Bob Delaney: Chair, the Ontario Energy Board already has the authority to review transmission projects with respect to price, reliability and cost of service through the leave-to-construct process as defined in section 92 of the Ontario Energy Board Act.

Section 28.6.1 does not affect the requirement that a transmission proponent seek leave to construct prior to building transmission infrastructure. Therefore, the proposed amendment is redundant and would cause unnecessary cost and delay to the development, construction or expansion of a transmission system contrary to the government's intent to establish a more flexible and efficient planning process. So the government recommends opposing this amendment.

The Chair (Mr. Grant Crack): Thank you. Further discussion?

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There's no further discussion. There's been a request for a recorded vote by Mr. Tabuns on NDP motion 16.

Ayes

McDonell, Tabuns, Yakabuski.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare NDP motion number 16 defeated.

We shall move to NDP motion number 17, which is an amendment to schedule 2, section 14, which is a new subsection 28.6.1(3) of the Ontario Energy Board Act, 1998. Mr. Tabuns.

Mr. Peter Tabuns: I move that section 28.6.1 of the Ontario Energy Board Act, 1998, as set out in section 14 of schedule 2 to the bill, be amended by adding the following subsection:

"Responsibility of board

"(3) Despite subsection (1), the board shall not implement a directive under that subsection unless it is satisfied that the steps referred to in the directive are in the interests of consumers with respect to both price and to the reliability and quality of electricity service."

Again, Chair, this government is engaged in the sale of Hydro One, its privatization, with the argument that the Ontario Energy Board is a rigorous and powerful defender of the public interest. I put forward this amendment in the hope that some powers will be left with the Ontario Energy Board to protect ratepayers in this province.

The Chair (Mr. Grant Crack): Thank you, Mr. Tabuns. Further discussion? Mr. Delaney.

Mr. Bob Delaney: As explained in the last amendment, the proposed amendment duplicates the existing processes and the ability to do what my colleague suggests already exists in this bill or in other legislation governing other bodies, particularly in the Ontario Energy Board Act, 1998.

The Chair (Mr. Grant Crack): Thank you. Further discussion?

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote on NDP motion 17. There being no further discussion, I shall call the vote.

Ayes

Tabuns.

Nays

Colle, Delaney, Dickson, Hoggarth, Martins.

The Chair (Mr. Grant Crack): I declare NDP motion 17 defeated.

There are no amendments to schedule 2, section 14. Is there any discussion on schedule 2, section 14, in its entirety? Mr. Yakabuski.

Mr. John Yakabuski: Yes, the PC Party recommends voting against section 14 of schedule 2.

The Chair (Mr. Grant Crack): Further discussion? Mr. McDonell.

Mr. Jim McDonell: I was going to say that we're somewhat concerned. We've seen some of the issues that we've had, especially with transmission, where we're building lines that go nowhere. We're hoping that if they were forced to consider some of these issues, maybe we wouldn't be building lines at the cost of multiple millions of dollars, Niagara to Caledonia, that go nowhere. It has been that way for long enough that we've spent about another \$50 million just in interest costs—and no interest by this government at all to resolve those issues. It's millions of dollars every year that could go to something else.

We certainly oppose this section because we think some of the amendments in it might have curtailed some of the big mistakes we've seen in the past.

The Chair (Mr. Grant Crack): Further discussion on schedule 2, section 14? There being none, I shall call for the vote on schedule 2, section 14.

Mr. Peter Tabuns: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

Colle, Delaney, Dickson, Hoggarth, Martins.

Nays

McDonell, Tabuns, Yakabuski.

The Chair (Mr. Grant Crack): I declare schedule 2, section 14, carried.

We have schedule 2, sections 15, 16, 17, 18 and 19. There are no amendments. Would the committee wish to group those?

Ms. Ann Hoggarth: Yes, please.

Mr. Peter Tabuns: A recorded vote.

The Chair (Mr. Grant Crack): Thank you very much. There has been a request for a recorded vote. Is there any discussion on schedule 2, sections 15 through 19? There being none, I shall call for the vote on schedule 2, sections 15, 16, 17, 18 and 19.

Ayes

Colle, Delaney, Dickson, Hoggarth, Martins.

Nays

McDonell, Tabuns, Yakabuski.

The Chair (Mr. Grant Crack): I declare schedule 2, sections 15, 16, 17, 18 and 19 carried.

We shall deal with schedule 2 in its entirety. There are no amendments to schedule 2.

Mr. John Yakabuski: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote. Any discussion on schedule 2

in its entirety? There being none, I shall call for the recorded vote.

Ayes

Colle, Delaney, Dickson, Hoggarth, Martins.

Nays

McDonell, Tabuns, Yakabuski.

The Chair (Mr. Grant Crack): I declare schedule 2 carried.

As discussed at the start of the meeting, we've moved the sections to the end of the amendment and motion aspect of the meeting, so we shall move to section 1, at the very beginning. Are there any questions or comments regarding section 1? There are no amendments. I shall call the vote.

Shall section 1 carry? Carried.

Section 2: Any discussion or comments? There being none, I shall call the vote. Shall section 2 carry? It is carried.

Section 3: Any discussion on section 3? Then I shall call the vote. Shall section 3 carry? I declare section 3 carried.

Title: There are no amendments to the title. Any discussion on the title? There being none, I shall call the vote. Shall the title of the bill carry? I declare the title of the bill carried.

1610

Any discussion on Bill 135?

Mr. Peter Tabuns: No, but I'd like a recorded vote.

The Chair (Mr. Grant Crack): There has been a request for—

Interjection.

The Chair (Mr. Grant Crack): You want a discussion as well? Okay.

There has been a request for a recorded vote on Bill 135. We'll deal with that. Is there any discussion on the bill in its entirety? Mr. Yakabuski.

Mr. John Yakabuski: I thank the members of the committee today, but this is a very sad day. It's a sad day when the opposition works hard and the stakeholders work hard to try to improve upon a piece of legislation, to try to bring their best efforts forward to make this more representative of what the people of Ontario need; to make it fair; to ensure that the best information, the best advice, and the best technical people are involved in the decisions of the Ministry of Energy. Sadly, the government had the opportunity to recognize that and, sadly, chose to revert to their dictatorial ways in the way that they rammed through the amendments on this bill without any real consideration as to what the effects of this bill, unamended, are going to be. The Liberal government will continue to have its way as long as they have a majority, but the people of Ontario are not being served by this legislation in its unamended form, and we will be

indicating that from the perspective of the official opposition.

The Chair (Mr. Grant Crack): Any further discussion on the bill? Mr. McDonell.

Mr. Jim McDonell: We heard a lot of deputants that came to this hearing, a lot of concern about the power the government in the past refused to follow. Now, all they're doing is legalizing the fact that they can go through passing legislation.

It really has affected all the people in Ontario, specifically in my riding. I hear people every day complain about the cost of electricity. We're seeing the results of legislation now that removes a lot of oversight, a lot of the expert witnesses that, I believe, could have stopped a lot of the mistakes that have been made by this government if they had chosen to listen. And clearly, they are mistakes. When you've taken what used to be a real benefit in this province, low-cost energy, and changed it into what we have today—and finally, we're hearing manufacturers that used to take the attitude of, "We'll work with government. We don't want to criticize them. Hopefully, they'll change." Now, companies like Chrysler and GM are saying, as they're leaving and turning off the lights, "The reason we're leaving is that the cost of energy has gotten out of hand in this province." I hear it every day. We don't have the benefit of big car plants, but you certainly have the small industries that are having a lot of trouble, and homeowners.

It's laughable, this latest budget, to give \$2 off a month for electricity bills when we've seen just in the last 60 days a \$100 increase on the price of power this year.

Anyway, it just goes to say that they think people haven't noticed, and I think people have noticed, and they're certainly letting us know here. It's almost embarrassing to hear some of the violent solutions that are being suggested when we're in the riding, but that's where it's getting.

The Chair (Mr. Grant Crack): Further discussion? Mr. Tabuns.

Mr. Peter Tabuns: I expect that I will have the opportunity when we debate this at third reading to go into greater detail, but I have to say, alongside the sell-off of Hydro One, this is the most damaging thing I've seen this government do to the electricity sector in the time that I've been here. The removal of the ability for the public to question decision-makers, to test evidence in open tribunal, and the rollback of public intervention is going to damage this province for a long time to come.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on the carrying of Bill 135.

Mr. Peter Tabuns: A recorded vote.

The Chair (Mr. Grant Crack): There's been a request for a recorded vote.

Ayes

Colle, Delaney, Dickson, Hoggarth, Martins.

Nays

McDonell, Tabuns, Yakabuski.

The Chair (Mr. Grant Crack): I declare Bill 135 carried.

Shall I report the bill to the House? Those in favour? Those opposed? I declare that I shall report the bill to the House. Carried.

I would like to thank all members of the committee for their hard work this afternoon and through the two days of public hearings.

There is no further business to conduct this afternoon in the Standing Committee on General Government. Have a wonderful afternoon and wonderful evening. Thank you all for the good work that everybody does. This meeting is adjourned.

The committee adjourned at 1616.

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